



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 11, 2024, at 1:30 p.m. at the Utah Department of Environmental Quality, (Multi-Agency State Office Building) Conference Room #1015, 195 North 1950 West, SLC.

Board members and interested persons may participate electronically/telephonically.

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

AGENDA

- I. Call to Order and Roll Call.
- II. Public Comments on Agenda Items.
- III. Declarations of Conflict of Interest.
- IV. Approval of the meeting minutes for the November 9, 2023 Board meeting..... Tab 1
(Board Action Item)
- V. Petroleum Storage Tanks Update Tab 2
- VI. Administrative Rules Tab 3
 - A. Proposed changes to the Utah Solid and Hazardous Waste Rules R315-320 of the Utah Administrative Code (Information Item).
 - B. Final adoption of proposed changes to the Utah Solid and Hazardous Waste Rules R315-124, R315-301, R315-302, R315-304, R315-306, R315-311, and R315-314 of the Utah Administrative Code **(Board Action Item)**.
 - C. Final adoption of proposed changes to Radiation Control Rules R313-19, R313-21, and R313-22 of the Utah Administrative Code to make changes requested by the Nuclear Regulatory Commission (NRC) to ensure compatibility of Utah rules with the federal regulations **(Board Action Item)**.

(Over)

VII. Hazardous Waste Section Tab 4

- A. Proposed Stipulation and Consent Order between the Director and Tri State Oil Reclaimers, Inc. (UOP-0195) (Information Item).
- B. Proposed Stipulation and Consent Order between the Director and Tri State Oil Reclaimers, Inc. (UOP-0135/UOR-0137) (Information Item).
- C. Proposed Stipulation and Consent Order between the Director and Tri State Oil Reclaimers, Inc. (UOP-0172) (Information Item).
- D. Approval of Proposed Stipulation and Consent Order between the Director and Clean Harbors Environmental Services (**Board Action Item**).
- E. Approval of Proposed Stipulation and Consent Order between the Director and Clean Harbors Aragonite, LLC (**Board Action Item**).

VIII. Director’s Report.

IX. Other Business

- A. Miscellaneous Information Items.
- B. Scheduling of next Board meeting (February 8, 2024).

X. Adjourn.

In compliance with the Americans with Disabilities Act, individuals with special needs (including auxiliary communicative aids and services) should contact LeAnn Johnson, Office of Human Resources at (385) 226-4881, Telecommunications Relay Service 711, or by Email at “leannjohnson@utah.gov”.

Waste Management and Radiation Control Board Meeting Minutes
Utah Department of Environmental Quality
Multi-Agency State Office Building (Conf. Room #1015)
195 North 1950 West, SLC
November 9, 2023
1:30 p.m.

Board Members Participating at Anchor Location: Brett Mickelson (Chair), Dr. Richard Codell,
Nathan Rich, Vern Rogers, Shane Whitney

Board Members Participating Virtually: Dr. Steve McIff, Scott Wardle

Board Members Excused/Absent: Dennis Riding (Vice-Chair), Danielle Endres, Mark Franc, Jeremy Hawk,
Kim Shelley

UDEQ Staff Members Participating at Anchor Location:

Brent Everett, Doug Hansen, Morgan Atkinson, Tom Ball, Elizabeth Burns, Brenden Catt, Arlene Lovato,
Kari Lundeen, Judy Moran, Deborah Ng, Mike Pecorelli, Elisa Smith, Brian Speer

Others Attending at Anchor Location: Eric Jorgensen

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

I. Call to Order and Roll Call.

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

II. Public Comments on Agenda Items – None.

III. Declaration of Conflict of Interest – None.

IV. Approval of the meeting minutes for the October 12, 2023 Board meeting (Board Action Meeting).

It was moved by Shane Whitney and seconded by Nathan Rich and UNANIMOUSLY CARRIED to approve the October 12, 2023 Board meeting minutes.

V. Petroleum Storage Tanks Update.

Brent Everett, Director, Division of Environmental Response and Remediation (DERR), informed the Board that the cash balance of the Petroleum Storage Tank (PST) Fund for the end of October 2023, is \$32,747,054.00. The DERR continues to watch the balance of the PST Fund closely to ensure sufficient cash is available to cover qualified claims for releases. There were no comments or questions.

VI. Administrative Rules.

A. Approval from the Board to proceed with formal rulemaking and public comment on proposed changes to R315-124, R315-301, R315-302, R315-304, R315-306, R315-309, R315-310, R315-311, and R315-314 of the Solid and Hazardous Waste Rules of the Utah Administrative Code (Board Action Item).

Tom Ball, Planning and Technical Support Section Manager, and Brian Speer, Solid Waste Section Manager, in the Division of Waste Management and Radiation Control (Division), reviewed the approval from the Board to proceed with formal rulemaking and public comment on proposed changes to the Solid Waste Rules

R315-124, R315-301, R315-302, R315-304, R315-306, R315-309, R315-310, R315-311, and R315-314 of the Utah Administrative Code (UAC) to correct rule and statutory references and language, clarify rule language, remove requirements that are no longer necessary, add some new requirements to the rules, and add language and requirements to rules as required by legislation passed by the Utah Legislature. This matter was presented to the Board as an informational item at the October 12, 2023 Board Meeting.

The solid waste rules have not been updated or amended for several years, so the purpose of this rulemaking is to bring the rules up-to-date and fix errors that exist in the rules. There are several statutory citations in the rules that are not correct because statutes have been amended and numbering has changed, so that numbering is being corrected. Also, several rule citations were found to be incorrect, so these are also being corrected.

Clarifying language is being added in several locations to assist the regulated community in implementing the rules. The Utah Legislature also passed bills in the past several years that made changes to the solid waste program. These changes are being codified in rule with these amendments.

Also, UAC R315-311 is being amended to require the Division to follow the requirements of UAC R315-124 when an application for a solid waste facility permit is received, modified, revoked, or terminated. These requirements improve the public participation process for these types of permitting actions.

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

This is a Board Action Item, and the Director of the Division recommends the Board approve proceeding with formal rulemaking and public comment by publishing in the December 1, 2023, Utah State Bulletin the proposed changes to R315-124, R315-301, R315-302, R315-304, R315-306, R315-309, R315-310, R315-311, and R315-314 of the Utah Admin. Code and conduct a public comment period from December 1, 2023 to January 3, 2024.

Nathan Rich commented as a Groundwater Engineer that he is pleased to see that after 30 years, the State recognizes groundwater as one word rather than two.

Mr. Rich had specific comments, questions, and concerns regarding clarity specific to UAC R315-310 that included the vague definition associated with the wording and meaning of "solid waste facilities." Mr. Speer stated that there was not any purposeful vagueness to the use of that term. Mr. Speer noted that the definition of a solid waste disposal facility does not include all facility types that require approval from the Director. Specifically, the language and definitions in UAC R315-310 should capture all facilities that require approval from the Director. Further discussion took place regarding the definition of solid waste facilities and what types of facilities require a permit.

Mr. Rich had specific comments, questions, and concerns with clarity specific to proposed language in UAC R315-310-1(b) regarding the terms and meaning of "other facilities" that do not require a permit. Mr. Speer stated that there is a possibility of adding some clarity and further discussed those facility types that require approval that are not listed in the rules.

Mr. Rich had questions relating to compost and transfer stations as these types of facilities do not require a permit, but the proposed rules imply new requirements. Mr. Speer stated that while making the proposed changes to the rules, it was discovered that the term "permit" is used in different ways in different parts of the rules. So, part of this change is to be more consistent throughout all the Solid Waste Rules. Further discussion took place regarding the definition of "permit" vs. "plan of operation" and possibly improving the clarity of the proposed rules. Mr. Rich commented that he feels that clarity is needed to differentiate between the type of permit, such as a Permit vs. a Plan of Operations.

Mr. Rich had a question regarding a new section in the Rules (UAC R315-310-3) that discusses an application for a new facility owner/operator to check certain boxes. Further discussion regarding this matter took place. Also, Mr. Rich questioned if the Division is now applying this to composting facilities when he believed that the intent of that legislation was meant for landfills not all facilities. Mr. Speer stated that the Solid and Hazardous Waste Act does not differentiate between different types of facilities, generally speaking, when they are talking about facilities that will address disposal, treatment, storage. etc., and the language being referred to was taken directly out of the State statute, and this language only applies to local governmental facilities.

After all of Mr. Rich's concerns were discussed as noted above, it was determined that the best path forward would be for Mr. Rich to submit all his concerns on the proposed rule changes to UAC R315-310 to the Division during the public comment period. After the Division has had a chance to address all Mr. Rich's comments, this specific rule could come back to the Board as a change in the proposed rules or, if needed, go out for a second public comment period if the timeframe has lapsed. It was clarified that because the concerns only address UAC R315-310, the rest of the proposed rule changes that received no public comment would continue in the rulemaking process.

[It was noted that in the Executive Summary, the year the public comment period ended was incorrectly listed as January 3, 2023, instead of January 3, 2024; this has been corrected.]

It was moved by Nathan Rich and seconded by Dr. McIff and UNANIMOUSLY CARRIED to approve proceeding with formal rulemaking and public comment by publishing in the December 1, 2023, Utah State Bulletin the proposed rule changes to R315-124, R315- 301, R315-302, R315-304, R315-306, R315-309, R315-310, R315-311, and R315-314 of the Utah Admin. Code and conducting a 30-day public comment period from December 1, 2023 to January 3, 2024.

B. Approval of the Board to proceed with formal rulemaking and public comment on proposed changes to R313-19, R313-21, and R313-22 of the radiation control rules to make changes requested by the Nuclear Regulatory Commission (NRC) to ensure compatibility of Utah rules with the federal regulations (Board Action Item).

Tom Ball, Planning and Technical Support Section Manager in the Division of Waste Management and Radiation Control (Division), reviewed the approval from the Board to proceed with formal rulemaking and public comment on proposed changes to Utah Admin. Code (UAC) R313-19, R313-21, and R313-22 of the Radiation Control Rules to make changes requested by the Nuclear Regulatory Commission (NRC) to ensure compatibility of Utah rules with the federal regulations.

The Nuclear Regulatory Commission provided comments to the Division after a review of the Division rules regarding inconsistencies between Utah rules and federal regulations. Some of the comments were fairly minor, as the word "mirror" was left out of one of the rules and the word "uranium" was left out of another rule. Also, the reference to 10 CFR 40.32(b) and (c) needed to be added to a rule and parts of 10 CFR that were incorporated by reference in UAC R313-21-2(c) are being updated as the NRC requested, as all the citations were not in the rules. Those citations requested have been added. References to 10 CFR 40.22 and 40.51 are being addressed in UAC R313-22-55(1)(c)(i) by adding the phrase "regulations of the NRC" to that rule. The final correction made was to correct UAC R313-22-55 (1)(d)(i) by adding the requirement to report to the Director of the Office of Nuclear Material Safety and Safeguards at the NRC in addition to reporting to the Director of the Division of Waste Management and Radiation Control.

These changes need to be made to the rules for Utah to maintain compatibility with the federal regulations. Additionally, the Division is fixing typographical and formatting errors found in the rules as requested by the Governor's Office.

The Director recommends the Board approve proceeding with formal rulemaking and public comment by publishing in the December 1, 2023, Utah State Bulletin the proposed changes to UAC R313-19, R313-21, and R313-22 of the Utah Admin. Code and conducting a public comment period from December 1, 2023 to January 3, 2024. There were no comments or questions.

[It was noted that in the Executive Summary, the year the public comment period ended was incorrectly listed as January 3, 2023, instead of January 3, 2024; this has been corrected.]

It was moved by Vern Rogers and seconded by Dr. Codell and UNANIMOUSLY CARRIED to approve to proceed with formal rulemaking by publishing in the December 1, 2023, Utah State Bulletin the proposed rule changes to the Radiation Control Rules R313-19, R313-21, and R313-22 of the Utah Admin. Code and conducting a 30-day public comment period from December 1, 2023 to January 3, 2024.

VII. Hazardous Waste Section.

Introduction – Director Doug Hansen reported that at the last Board meeting, a Board member questioned if Stipulated and Consent Orders (SCOs) are published on the State of Utah notification website/Utah Public Notice Website. At that time, Director Hansen indicated that SCOS are published on that website. However, after verifying that information, Director Hansen was incorrect, as SCOs are only published on the Division’s webpage and, to his knowledge, no other division in the Department publishes their SCOs to the Utah Public Notice Website, either. Director Hansen stated that if the Board felt it was something they were interested in pursuing, that could be looked into. Director Hansen also informed the Board that the Division is moving a lot of its operations to a new database management system with Salesforce, and the new database will have the ability to assist in notifying the public who are interested in different topics; i.e., the public can request to be put on different mailing lists and then will be provided notifications electronically. So, as the public signs up for notifications of what their interests are, they will receive targeted notifications for the different actions happening in the Division, and this ability will be available for all the Division’s different programs. One of the goals of the new database management system is to create a better opportunity to provide targeted information to the right audience with their various interests.

A. Proposed Stipulation and Consent Order between the Director and Clean Harbors Environmental Services (Information Item).

Kari Lundeen, Environmental Scientist/Inspector, Hazardous Waste Section, Division of Waste Management and Radiation Control, reviewed a proposed Stipulation and Consent Order (SCO), to resolve a Notice of Violation and Compliance Order, issued to Clean Harbors Environmental Services (CHES) on March 28, 2022.

The NOV/CO was based on information documented during an inspection at the Clean Harbors Aragonite facility in June 2021 and a subsequent review of documents (from June 2021 through October 2021) related to the transport of hazardous waste. The violations noted in the NOV/CO have been resolved. The SCO includes a total proposed penalty of \$40,080.00. Clean Harbors Environmental Services will pay a monetary penalty of \$20,040.00, while \$20,040.00 will be held in abeyance if CHES completes requirements set forth in Paragraph 12 of the SCO that was included in the November 9, 2023 Board’s packet.

This is an informational item only. A 30-day public comment period is currently underway and will end on December 1, 2023. Following the comment period, this matter will be brought before the Board for final action at the January 11, 2024 Board meeting. There were no comments or questions.

B. Proposed Stipulation and Consent Order between the Director and Clean Harbors Aragonite, LLC (Information Item).

Deborah Ng, Hazardous Waste Section Manager, Division of Waste Management and Radiation Control, reviewed a proposed Stipulation and Consent Order (SCO), to resolve a Notice of Violation and Compliance Order, issued to Clean Harbors Aragonite, LLC (CHA) on June 24, 2022.

The violations noted in the NOV/CO have been resolved. The SCO includes a proposed penalty of \$90,030.50, of which \$75,030.50 will be a cash payment and of which \$15,000 will be deferred and may be vacated if CHA is able to meet the criteria laid out in the proposed SCO.

Copies of the NOV/CO, the SCO, and the penalty narrative are included in this Board packet. §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.

This is an informational item only. A 30-day public comment period began on November 2, 2023, and will end December 1, 2023. Following the comment period, this matter will be brought before the Board for final action at the January 11, 2024 Board meeting. There were no comments or questions.

C. Approval of Proposed Stipulation and Consent Order between the Director and Utah State University (Board Action Item).

Judy Moran, Environmental Scientist/Inspector, Hazardous Waste Section, Division of Waste Management and Radiation Control, reviewed the Board's approval of a proposed Stipulation and Consent Order between the Director and Utah State University (USU) to resolve a Notice of Violation and Compliance Order (NOV/CO), issued to Utah State University on April 8, 2022. This is a Board action item.

The 13 violations identified in the NOV/CO have been resolved. The SCO includes a total penalty of \$28,409.00. Utah State University will pay a monetary penalty of \$2,840.90. The remaining \$25,568.10 may be credited toward the total penalty of \$28,409.00 if USU completes a supplemental environmental project (SEP). Utah State University has proposed to add 80 solar panels to an existing solar array on the Gateway Parking Terrace's roof. The estimated cost of purchasing and installing the 80 panels is \$60,000. Fifty cents will be applied toward the credit amount for every SEP dollar spent by USU.

A 30-day public comment period began on Tuesday, October 10, 2023, and ended on November 8, 2023. No comments were received. The Director of the Division of Waste Management and Radiation Control recommends the Board approve this SCO. There were no comments or questions.

It was moved by Shane Whitney and seconded by Vern Rogers and UNANIMOUSLY CARRIED to approve the Proposed Stipulation and Consent Order between the Director and Utah State University.

VIII. Director's Report.

Director Hansen reported that some organizational structure changes will be occurring within the Division and presented those changes to the Board. These changes are anticipated to be implemented at the beginning of the new year. The major changes include the addition of two new sections (Used Oil and Uranium Mill). Currently, the sections that encompass these programs are fairly large as both contain two programs within each section, so each of the two sections will be split, and the new work sections will be established. It is anticipated that this change will create some efficiencies as currently the sheer workload and all the staff in these larger sections reporting through one manager tend to bog things down. Also, indicators predict that there will be some growth within these programs and other Division programs as the economic increase within the State is not going to change. Director Hansen explained the anticipated growth of the Division programs and commented that this change sets the stage for the Division to adapt and continue to grow

accordingly by creating efficiencies in the work being conducted, as well as create opportunities so that when growth occurs it can be realistically and effectively be managed.

Vern Rogers asked how the new section managers will be appointed. Director Hansen stated the Division anticipates hiring two new managers for these sections in the near future.

Also, Director Hansen informed the Board that the Division has requested a building block to supplement the staffing of the Low Level Waste Section. The Division is currently looking into some internal structural changes within that section that are anticipated to create some efficiencies in the management scheme for that section. Unfortunately, the Division cannot divide this section up so instead is looking into some creative internal solutions to help manage some of the workload within this section.

Director Hansen reported that with the upcoming legislative session, a few conversations have been held including receiving some feedback on the Division's fee schedules that may draw some legislative attention during the upcoming session. Director Hansen stated that he is also aware of one bill that deals with produced water in the Basin (energy and exploration process water) but does not anticipate it to impact the Division, but the Division will continue to monitor this bill. Director Hansen stated that if Board members are aware of potential legislation that could impact the Division, he would appreciate being informed.

Vern Rogers commented that several months ago, the Board approved an annual treatment variance that *EnergySolutions* brings before the Board for its cemented waste uranium waste that is generated by the Department of Energy. At that time, Dr. Codell asked some questions about the material, including its chemical nature. Although it has taken *EnergySolutions* a while to deal with the release of that information, they have received it and have provided it to the Division and want to make sure Dr. Codell has received the information.

Arlene Lovato, Administrative Secretary for the Division, informed the Board that the Division did receive the information, and Tyler Hegburg, lead Division staff member on this matter, is in the process of providing a short summary to be included in the information provided by *EnergySolutions* and then it will be sent to Dr. Codell.

IX. Other Business.

A. Miscellaneous Information Items - None.

B. Scheduling of next Board Meeting (January 11, 2024).

The next meeting is scheduled for January 11, 2024 at the Utah Department of Environmental Quality, Multi-Agency State Office Building.

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

X. Adjourn.

The meeting adjourned at 2:20 p.m.

PST STATISTICAL SUMMARY
December 1, 2022 -- November 30, 2023

PROGRAM													
	December	January	February	March	April	May	June	July	August	September	October	November	(+/-) OR Total
Regulated Tanks	4,196	4,188	4,200	4,203	4,198	4,210	4,211	4,218	4,241	4,236	4,238	4,225	29
Tanks with Certificate of Compliance	4,083	4,089	4,088	4,093	4,103	4,105	4,110	4,122	4,117	4,111	4,117	4,116	33
Tanks without COC	113	99	112	110	95	105	101	96	124	125	121	109	(4)
Cumulative Facilities with Registered A Operators	1,282	1,280	1,279	1,276	1,279	1,279	1,282	1,289	1,288	1,282	1,283	1,278	97.86%
Cumulative Facilities with Registered B Operators	1,282	1,281	1,281	1,279	1,280	1,279	1,281	1,288	1,288	1,282	1,283	1,282	98.16%
New LUST Sites	9	9	9	4	2	9	6	5	5	13	5	4	80
Closed LUST Sites	3	7	8	17	6	11	4	7	8	14	6	9	100
Cumulative Closed LUST Sites	5501	5509	5524	5531	5539	5542	5549	5556	5571	5578	5586	5592	91
FINANCIAL													
	December	January	February	March	April	May	June	July	August	September	October	November	(+/-)
Tanks on PST Fund	2,628	2,623	2,621	2,617	2,619	2,617	2,618	2,621	2,617	2,611	2,618	2,625	(3)
PST Claims (Cumulative)	711	711	711	710	711	713	723	724	724	725	725	725	14
Equity Balance	\$274,341	\$739,913	\$1,273,567	\$1,223,767	\$1,689,965	\$1,933,855	\$2,514,097	\$3,265,812	\$4,455,502	\$3,271,204	\$3,527,017	\$3,623,404	\$3,349,063
Cash Balance	\$28,445,991	\$28,911,563	\$29,445,217	\$29,395,417	\$29,861,615	\$30,105,505	\$30,685,747	\$31,437,462	\$32,627,152	\$32,491,241	\$32,747,054	\$32,843,441	\$4,397,450
Loans	0	0	0	0	0	0	0	1	0	0	0	0	0
Cumulative Loans	128	128	128	128	128	128	128	129	129	129	129	129	1
Cumulative Amount	\$6,014,420	\$6,014,420	\$6,014,420	\$6,014,420	\$6,014,420	\$6,014,420	\$6,014,420	\$6,213,705	\$6,213,705	\$6,213,705	\$6,213,705	\$6,213,705	\$199,285
Defaults/Amount	0	0	0	0	0	0	0	0	0	0	0	0	0
	December	January	February	March	April	May	June	July	August	September	October	November	TOTAL
Speed Memos	31	42	44	79	40	61	102	62	103	69	122	105	860
Compliance Letters	9	5	3	7	27	5	17	4	7	7	16	9	116
Notice of Intent to Revoke	0	0	0	0	0	0	0	0	0	0	0	0	0
Orders	3	0	0	1	1	0	0	0	0	1	1	0	7

WASTE MANAGEMENT AND RADIATION CONTROL BOARD
Executive Summary
Proposed Rule Changes
UAC R315-320
January 11, 2024

<p>What is the issue before the Board?</p>	<p>During the October 12, 2023 Board meeting, UAC R315-320 along with other rule sets was presented as an information item. Due to coordination with other agencies, this rule was not included in the November 9, 2023 rule sets presented to the Board for approval to proceed with formal rulemaking and public comment. All matters regarding the proposed rule changes have been addressed and UAC R315-320 is now before the Board as an Information Item.</p> <p>At the February 8, 2024 Board meeting, the Division will be seeking approval from the Board to proceed with formal rulemaking and public comment on proposed changes to UAC R315-320 to correct rule and statutory references and language, clarify rule language, remove requirements that are no longer necessary, add some new requirements to the rules, and add language and requirements to rules as required by legislation passed by the Utah Legislature.</p>
<p>What is the historical background or context for this issue?</p>	<p>The solid waste rules have not been updated or amended for several years. This rulemaking is to bring the rules up-to-date and fix errors in the rules and is a continuation of the solid waste rulemaking that was approved by the Board at the November 9, 2023, Board meeting.</p> <p>With this rulemaking: Language is being added to UAC R315-320-1(1) to make it clear that waste tire transporters and recyclers are defined in statute. Language is being added to UAC R315-320-1(3) to make it clear that the director or an authorized representative may enter and inspect a site to verify compliance with UAC R315-320. Definitions have been added to UAC R315-320-2. Language is being added to UAC R315-320-3 that changes the number of tires and the size of tires that an individual can bring to a landfill at one time as required by House Bill 27 that was passed during the 2020 session of the Utah State Legislature. Language is being added that clarifies other requirements for the landfill management of waste tires and material derived from waste tires. The citation to 19-6-804(4) found in UAC R315-320-3(5) is being corrected to 19-6-804(5). Utah Administrative Code R315-320-6(2) is being added to provide clear language in the rules regarding what is required by statute. Language is being added and removed from UAC R315-320-7 to make it clear what is required by statute and as required by House Bill 236 that was passed during the 2021 session of the Utah State Legislature.</p>

	<p>These rules govern the reimbursement for removal of a tire pile at a landfill or transfer station owned by a government entity or an abandoned tire pile and address the information that must be submitted to the Director to determine reasonability of a bid.</p> <p>A copy of the amended rule follows this Executive Summary.</p> <p>Additionally, the Division is fixing typographical and formatting errors found in the rules as requested by the Governor’s Office.</p>
What is the governing statutory or regulatory citation?	<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 for the treatment and disposal of solid waste.</p> <p>The rule changes also meet existing DEQ and state rulemaking procedures.</p>
Is Board action required?	<p>No. This is an informational item for the Board. Board action on this proposed rulemaking will be required at a future Board meeting.</p>
What is the Division Director’s recommendation?	<p>Not applicable at this time.</p>
Where can more information be obtained?	<p>Please contact Tom Ball by email at tball@utah.gov or by phone at 385-454-5574.</p>

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

R315-320. Waste Tire Transporter and Recycler Requirements.

R315-320-1. Authority, Purpose, and Inspection.

(1) ~~The~~ **Requirements for** waste tire transporters and recyclers, **as defined by Section 19-6-803,** ~~requirements~~ are promulgated under the authority of the Waste Tire Recycling Act, Title 19, Chapter 6, and the Solid and Hazardous Waste Act Title 19, Chapter 6, to protect human health; to prevent land, air and water pollution; to conserve the state's natural, economic, and energy resources; and to promote recycling of waste tires.

(2) Except for Subsections R315-320-4(7) and R315-320-5(7), which apply to the application fees for the registration of a waste tire transporter and a waste tire recycler throughout the state, Rule R315-320 does not supersede any ordinance or regulation adopted by the governing body of a political subdivision or local health department if the ordinance or regulation is at least as stringent as Rule R315-320, nor does Rule R315-320 relieve a tire transporter or recycler from the requirement to meet ~~all~~ **any** applicable local ordinances or regulations.

(3) The ~~D~~irector or an authorized representative may enter and inspect the site of a waste tire transporter or a waste tire recycler **as specified in Subsection R315-302-2(5)(b)** **to verify compliance with Rule R315-320.**

R315-320-2. Definitions.

Terms used in Rule R315-320 are defined in Sections R315-301-2 and 19-6-803. In addition, for ~~the purpose of~~ Rule R315-320, the following definitions apply:

(1) **"Abandoned waste tire pile" means a waste tire pile that the local department of health has not been able to:**

- (a) locate the persons responsible for the tire pile; or
- (b) cause the persons responsible for the tire pile to remove the tire pile.

(2) **"Beneficial use" means the use of chipped tires in a manner that is not recycling, storage, or disposal, but that serves as a replacement for another product or material for specific purposes.**

(a) **"Beneficial use" includes the use of chipped tires:**

- (i) as daily landfill cover;
- (ii) for civil engineering purposes;
- (iii) as low density, light weight aggregate fill; or
- (iv) for septic or drain field construction.

(b) **"Beneficial use" does not include the use of waste tires for material derived from waste tires:**

- (i) in the construction of fences; or
- (ii) as fill, other than low density, light weight aggregate fill.

(3) **"Chip" or "chipped tire" means a two inch square or smaller piece of a waste tire.**

~~(4)~~(4) **"Demonstrated market" or "market" means the legal transfer of ownership of material derived from waste tires between a willing seller and a willing buyer meeting the following conditions:**

- (a) total control of the material derived from waste tires is transferred from the seller to the buyer;
- (b) the transfer of ownership and control is an "arms length transaction" between a seller and a buyer who have no other business relationship or responsibility to each other;
- (c) the transaction is done under contract ~~which~~ **that** is documented and verified by orders, invoices, and payments;

and

- (d) the transaction is at a price dictated by current economic conditions.
- (e) the possibility or potential of sale does not constitute a demonstrated market.

(5) **"Shredded waste tires" means waste tires or material derived from waste tires that has been reduced to a six inch square or smaller.**

(6) **"Waste tire" means:**

- (a) a tire that is no longer suitable for the tire's original intended purpose because of wear, damage, or defect; or
- (b) a tire that a tire retailer removes from a vehicle for replacement with a new or used tire.

~~(2)~~(7) **"Waste tire generator" means a person, an individual, or an entity that may cause waste tires to enter the waste stream. A waste tire generator may include:**

- (a) a tire dealer, a car dealer, a trucking company, an owner or operator of an auto salvage yard, or other person, individual, or entity that removes or replaces tires on a vehicle; or
- (b) a tire dealer, a car dealer, a trucking company, an owner or operator of an auto salvage yard, a waste tire transporter, a waste tire recycler, a waste tire processor, a waste tire storage facility, or a disposal facility that receives waste tires from a person, an individual, or an entity.

(8) **"Waste tire pile" means a pile of 200 or more waste tires at one location.**

R315-320-3. Landfill ~~ing~~ Management of Waste Tires and Material Derived from Waste Tires.

(1) Disposal of waste tires or material derived from waste tires is prohibited except as allowed by Subsection R315-320-3(2) or R315-320-3(3).

(2) Landfill ~~ing~~ **Management** of Whole **Waste** Tires. A landfill may not receive whole waste tires for disposal except as follows:

- (a) ~~waste tires delivered to a landfill~~ no more than ~~four~~¹² whole tires with a rim diameter up to and including 24.5 inches may be received at one time ~~by~~ from an individual, including a waste tire transporter, and shall be temporarily stored according to Subsection R315-320-3(3)(b); ~~or~~
- (b) waste tires from devices moved exclusively by human power may be disposed of in a landfill; ~~or~~ and
- (c) waste tires with a rim diameter greater than 24.5 inches may be disposed of in a landfill.
- (3) Landfilling of Waste Tires and Material Derived from Waste Tires.
- (a) A landfill, which has a permit issued by the ~~D~~ director, may receive material derived from waste tires for disposal, and whole waste tires for disposal according to Subsection R315-320-3(2).
- (b) Except for the beneficial use of material derived from waste tires at a landfill, whole waste tires and material derived from waste tires shall be ~~disposed~~ stored in a separate landfill cell or other area that is designed and constructed ~~as approved by the Director,~~ to keep the material in a clean and accessible condition so that it can reasonably be retrieved from the cell for future recycling.
- (4) Reimbursement for Landfill ~~ing~~ Management of Shredded Tires.
- (a) The owner or operator of a permitted landfill may apply for reimbursement for landfill ~~ing~~ management of shredded tires as specified in ~~Subsection R315-320-6(4)~~ Section 19-6-812 of the Waste Tire Recycling Act.
- (b) To receive the reimbursement, the owner or operator of the landfill ~~must~~ may apply to the local health department having jurisdiction over the applicant's business address and shall meet the following conditions:
- (i) the waste tires shall be shredded;
- (ii) the shredded tires shall be stored in a ~~segregated~~ separate cell or other ~~landfill facility~~ area that ensures the shredded tires are in a clean and accessible condition so that they can be reasonably retrieved and recycled at a future time; ~~and~~
- (iii) the waste tires are generated from within the state; and
- ~~(iii) the design and operation of~~ (iv) the landfill ~~cell or other landfill facility has been reviewed and approved by the Director prior to the acceptance of shredded tires~~ is operated in compliance with the Solid and Hazardous Waste Act and the applicable requirements of Rules R315-301 through R315-320.
- (5) Violation of Subsection R315-320-3(1), R315-320-3(2), or R315-320-3(3) is subject to enforcement proceedings and a civil penalty as specified in Subsection 19-6-804~~(4)~~(5).

R315-320-4. Waste Tire Transporter Requirements.

- (1) Each waste tire transporter who transports waste tires within ~~the state of~~ Utah ~~must~~ shall apply for, receive and maintain a current waste tire transporter registration certificate from the ~~D~~ director.
- (2) Each applicant for registration as a waste tire transporter shall complete a waste tire transporter application form provided by the ~~D~~ director and provide the following information:
- (a) business name;
- (b) address to include:
- (i) mailing address; and
- (ii) site address if different from mailing address;
- (c) telephone number;
- (d) list of vehicles used, including the following:
- (i) description of vehicle;
- (ii) license number of vehicle;
- (iii) vehicle identification number; and
- (iv) name of registered owner;
- (e) name of business owner;
- (f) name of business operator;
- (g) list of sites ~~to which~~ where waste tires are to be transported;
- (h) liability insurance information as follows:
- (i) name of company issuing policy;
- (ii) amount of liability insurance coverage; and
- (iii) term of policy~~;~~ and
- (i) meet the requirements of Subsections R315-320-4(3)(b) and R315-320-4(3)(c).
- (3) A waste tire transporter shall:
- (a) demonstrate financial responsibility for bodily injury and property damage, including bodily injury and property damage to third parties caused by sudden or nonsudden accidental occurrences arising ~~from~~ from transporting waste tires. The waste tire transporter shall have and maintain liability coverage for sudden or nonsudden accidental occurrences in the amount of \$300,000;
- (b) for the initial application for a waste tire transporter registration or for any subsequent application for registration at a site not previously registered, demonstrate to the ~~D~~ director that ~~all~~ the local government requirements for a waste tire transporter have been met, including ~~obtaining~~ getting ~~all~~ any necessary permits or approvals where required; and
- (c) demonstrate to the ~~D~~ director that the waste tires transported by the transporter are taken to a registered waste tire recycler or that the waste tires are placed in a permitted waste tire storage facility that is in full compliance with the requirements of Rule R315-314. ~~Filing~~ Filing of a complete report as required in Subsection R315-320-4(9) shall constitute compliance with this requirement.

- (4) A waste tire transporter shall notify the [D]director of:
 - (a) any change in liability insurance coverage within 5 working days of the change; and
 - (b) any other change in the information provided in Subsection R315-320-4(2) within 20 days of the change.
- (5) A registration certificate will be issued to an applicant following the:
 - (a) completion of the application required by Subsection R315-320-4(2);
 - (b) presentation of proof of liability coverage as required by Subsection R315-320-4(3); and
 - (c) payment of the fee as established by the Annual Appropriations Act.
- (6) A waste tire transporter registration certificate is not transferable and shall be issued for the term of one year.
- (7) If a waste tire transporter is required to be registered by a local government or a local health department:
 - (a) the waste tire transporter may be assessed an annual registration fee by the local government or the local health department not to exceed the following schedule:
 - (i) for one through five trucks, \$50; and
 - (ii) \$10 for each additional truck;
 - (b) the [D]director shall issue a non-transferable registration certificate upon the applicant meeting the requirements of Subsections R315-320-4(2) and R315-320-4(3) and shall not require the payment of the fee specified in Subsection R315-320-4(5)(c), if the fee allowed in Subsection R315-320-4(7)(a) is paid; and
 - (c) the registration certificate shall be valid for one year.
 - (8) Waste tire transporters storing tires in piles ~~must~~ shall meet the requirements of Rule R315-314. Reporting Requirements.
 - (a) Each waste tire transporter shall submit a quarterly activity report to the [D]director. The activity report shall be submitted on or before the 30th of the month following the end of each quarter.
 - (b) The activity report shall contain the following information:
 - (i) the number of waste tires collected at each waste tire generator, including the name, address, and telephone number of the waste tire generator;
 - (ii) the number of tires shall be listed by the type of tire based on the following:
 - (A) passenger~~]~~ or light truck tires or tires with a rim diameter of 19.5 inches or less;
 - (B) truck tires or tires ranging in size from 7.50x20 to 12R24.5; and
 - (C) other tires such as farm tractor, earth mover, motorcycle, golf cart, and ATV~~[-ete-]~~;
 - (iii) the number or tons of waste tires shipped to each waste tire recycler or processor for a waste tire recycler, including the name, address, and telephone number of each recycler or processor;
 - (iv) the number of tires shipped as used tires to be resold;
 - (v) the number of waste tires placed in a permitted waste tire storage facility; and
 - (vi) the number of tires disposed in a permitted landfill, or put to other legal use.
 - (c) The activity report may be submitted in electronic format.
 - (10) Revocation of Registration.
 - (a) The registration of a waste tire transporter may be revoked upon the [D]director finding that:
 - (i) the activities of the waste tire transporter that are regulated under Section R315-320-4 have been or are being conducted in a way that endangers human health or the environment;
 - (ii) the waste tire transporter has made a material misstatement of fact in applying for or ~~obtaining~~ getting a registration as a waste tire transporter or in the quarterly activity report required by Subsection R315-320-4(9);
 - (iii) the waste tire transporter has provided a recycler with a material misstatement of fact ~~which~~ that the recycler subsequently used as documentation in a request for partial reimbursement under Section 19-6-813;
 - (iv) the waste tire transporter has violated any provision of the Waste Tire Recycling Act, Title 19 Chapter 6, or any order, approval, or rule issued or adopted under the Waste Tire Recycling Act;
 - (v) the waste tire transporter failed to meet or no longer meets the requirements of Section R315-320-4;
 - (vi) the waste tire transporter has been convicted under Subsection 19-6-822; or
 - (vii) the waste tire transporter has had the registration from a local government or a local health department revoked.
 - (b) Registration will not be revoked for submittal of incomplete information required for registration or a reimbursement request if the error was not a material misstatement.
 - (c) For purposes of Subsection R315-320-4(10)(a), the statements, actions, or failure to act of a waste tire transporter shall include the statements, actions, or failure to act of any officer, director, agent or employee of the waste tire transporter.
 - (d) The administrative procedures set forth in Section R305-7 shall govern revocation of registration.

R315-320-5. Waste Tire Recycler Requirements.

- (1) Each waste tire recycler ~~requesting the reimbursement allowed by Subsection 19-6-809(1), must~~ shall apply for, receive, and maintain a current waste tire recycler registration certificate from the [D]director.
- (2) Each applicant for registration as a waste tire recycler shall complete a waste tire recycler application form provided by the [D]director and provide the following information:
 - (a) business name;
 - (b) address to include:
 - (i) mailing address; and
 - (ii) site address if different from mailing address;

- (c) telephone number;
- (d) owner name;
- (e) operator name;
- (f) description of the recycling process;
- (g) proof that the recycling process described in Subsection R315-320-5(2)(f) :
 - (i) is being conducted at the site; or
 - (ii) for the initial application for a recycler registration, that the recycler has the equipment in place and the ability to conduct the process at the site;
- (h) estimated number of tires to be recycled each year;
- (i) liability insurance information as follows:
 - (i) name of company issuing policy;
 - (ii) proof of the amount of liability insurance coverage; and
 - (iii) term of policy; and
- (j) meet the requirements of Subsection R315-320-5(3)(b).
- (3) A waste tire recycler shall:
 - (a) demonstrate financial responsibility for bodily injury and property damage, including bodily injury and property damage to third parties caused by sudden or nonsudden accidental occurrences arising from storing and recycling waste tires. The waste tire recycler shall have and maintain liability coverage for sudden or nonsudden accidental occurrences in the amount of \$300,000; and
 - (b) for the initial application for a recycler registration or for any subsequent application for registration at a site not previously registered, demonstrate to the [D]director that ~~all~~the local requirements for a waste tire recycler have been met, including ~~obtaining~~getting ~~all~~any necessary permits or approvals where required.
 - (4) A waste tire recycler shall notify the [D]director of:
 - (a) any change in liability insurance coverage within 5 working days of the change; and
 - (b) any other change in the information provided in Subsection R315-320-5(2) within 20 days of the change.
 - (5) A registration certificate will be issued to an applicant following the:
 - (a) completion of the application required by Subsection R315-320-5(2);
 - (b) presentation of proof of liability coverage as required by Subsection R315-320-5(3); and
 - (c) payment of the fee as established by the Annual Appropriations Act.
 - (6) A waste tire recycler registration certificate is not transferable and shall be issued for a term of one year.
 - (7) If a waste tire recycler is required to be registered by a local government or a local health department:
 - (a) the waste tire recycler may be assessed an annual registration fee by the local government or local health department according to the following schedule:
 - (i) if up to 200 tons of waste tires are recycled per day, the fee shall not exceed \$300;
 - (ii) if 201 to 700 tons of waste tires are recycled per day, the fee shall not exceed \$400; or
 - (iii) if over 700 tons of waste tires are recycled per day, the fee shall not exceed \$500.
 - (b) The [D]director shall issue a non-transferable registration certificate upon the applicant meeting the requirements of Subsections R315-320-5(2) and R315-320-5(3) and shall not require the payment of the fee specified in Subsection R315-320-5(5)(c), if the fee allowed by Subsection R315-320-5(7)(a) is paid.
 - (c) The registration certificate shall be valid for one year.
 - (8) Waste tire recyclers ~~must~~shall meet the requirements of Rule R315-314 for waste tires stored in piles.
 - (9) Revocation of Registration.
 - (a) The registration of a waste tire recycler may be revoked upon the [D]director finding that:
 - (i) the activities of the waste tire recycler that are regulated under Section R315-320-5 have been or are being conducted in a way that endangers human health or the environment;
 - (ii) the waste tire recycler has made a material misstatement of fact in applying for or ~~obtaining~~getting a registration as a waste tire recycler;
 - (iii) the waste tire recycler has made a material misstatement of fact in applying for partial reimbursement under Section 19-6-813;
 - (iv) the waste tire recycler has violated any provision of the Waste Tire Recycling Act, Title 19 Chapter 6, or any order, approval, or rule issued or adopted under the Waste Tire Recycling Act;
 - (v) the waste tire recycler has failed to meet or no longer meets the requirements of Subsection R315-320-5(1);
 - (vi) the waste tire recycler has been convicted under Subsection 19-6-822; or
 - (vii) the waste tire recycler has had the registration from a local government or a local health department revoked.
 - (b) Registration will not be revoked for submittal of incomplete information required for registration or a reimbursement request if the error was not a material misstatement.
 - (c) For purposes of Subsection R315-320-5(9)(a), the statements, action, or failure to act of a waste tire recycler shall include the statements, actions, or failure to act of any officer, director, agent, or employee of the waste tire recycler.
 - (d) The administrative procedures set forth in Section R305-7 shall govern revocation of registration.

R315-320-6. Reimbursement for Recycling Waste Tires.

(1) No partial reimbursement request submitted by a waste tire recycler for the first time, or the first time a specific recycling process or a beneficial use activity is used, shall be approved by a local health department under Section 19-6-813 until the local health department has received from the [D]director a written certification that the [D]director has determined the processing of the waste tires is recycling or a beneficial use. If the reimbursement request contains sufficient information, the [D]director shall make the recycling or beneficial use determination and notify the local health department in writing within 15 days of receiving the request for determination.

~~(2)~~ Requests for partial reimbursement by a waste tire recycler, including first time requests according to Subsection R315-320-6(1), and subsequent requests, may be made to the local health department having jurisdiction over the recycler's business address. The local health department will communicate with the division of finance to coordinate partial reimbursement approvals in accordance with Sections 19-6-809, 19-6-813, 19-6-814, and 19-6-815.

~~(2)~~(3) No partial reimbursement may be requested or paid for waste tires that were generated in Utah and recycled at an out-of-state location except as allowed by Subsection 19-6-809(1)(a)(ii)(C) or 19-6-809(1)(a)(ii)(D).

~~(3)~~(4) In addition to any other penalty imposed by law, any person who knowingly or intentionally provides false information required by Section R315-320-5 or Section R315-320-6 shall be ineligible to receive any reimbursement and shall return to the Division of Finance any reimbursement previously received that was ~~obtained~~received through the use of false information.

R315-320-7. Reimbursement for the Removal of a Tire Pile at a Landfill or Transfer Station Owned by a Governmental Entity or an Abandoned Tire Pile~~or a Tire Pile at a Landfill Owned by a Governmental Entity.~~

(1) A county or municipality applying for payment for removal of an abandoned tire pile or a tire pile at a county or municipal owned landfill or transfer station shall meet the requirements of Section 19-6-811.

(2) Determination of Reasonability of a Bid.

(a) The following items shall be submitted to the [D]director when requesting a determination of reasonability of a bid as specified in Subsections 19-6-811(1), 19-6-811(3), and 19-6-811(4):

(i) a copy of the bid or bids;

(ii) the location and approximate size of the waste tire pile;

(iii) for waste tire removal from a landfill or transfer station owned by a county or municipality, a statement:

(A) confirming that the waste tires were received at the landfill or transfer station;

(B) confirming that the waste tire pile consists solely of waste tires diverted from the landfill or transfer station waste stream; and

(C) landfill or transfer station waste receipt records indicating the origin of the waste tires;

(iv) for waste tire removal from an abandoned waste tire pile [

(ii) a letter from the local health department stating that the tire pile is abandoned~~or that the tire pile is at a landfill owned or operated by a governmental entity~~]; and

(iii)(v) a written statement from the county or municipality that the bidding was conducted according to the legal requirements for competitive bidding.

(b) The [D]director will review the submitted documentation in accordance with Subsection 19-6-811(4) and will inform the county or municipality if the bid is reasonable.

(c) A determination of reasonability of the bid will be made and the county or municipality notified within 30 days of receipt of the request by the [D]director.

(d) A bid determined to be unreasonable shall not be ~~deemed~~considered eligible for reimbursement.

(3) If the [D]director determines that the bid to remove waste tires from a landfill owned or operated by a government entity or from an abandoned waste tire pile ~~or from a waste tire pile at a landfill owned or operated by a governmental entity~~ is reasonable~~and that there are sufficient monies in the trust fund to pay the expected reimbursements for the transportation, recycling, or beneficial use under Section 19-6-809 during the next quarter~~, the [D]director may authorize reimbursement of a waste tire transporter's or recycler's costs to remove waste tires and deliver the waste tires to a recycler according to Subsection R315-320-7(6).~~a maximum reimbursement of:~~

~~(a) 100% of a waste tire transporter's or recycler's costs allowed under Subsection 19-6-811(2) to remove the waste tires from the waste tire pile and deliver the waste tires to a recycler if no waste tires have been added to the waste tire pile after June 30, 2001; or~~

~~(b) 60% of a waste tire transporter's or recycler's costs allowed under Subsection 19-6-811(2) to remove the waste tires from the waste tire pile and deliver the waste tires to a recycler if waste tires have been added to the waste tire pile after June 30, 2001.~~

(4) An operator of a state or local government landfill or transfer station shall submit to the director an application for reimbursement, including:

(a) the number of tons of waste tires removed from the landfill or transfer station;

(b) the location that the waste tires were removed from;

(c) the recycler where the waste tires were delivered; and

(d) if applicable, the amount charged by a third party waste tire transporter or recycler to transport the waste tires to the recycler.

(5) The recycler or waste tire transporter that removed the abandoned waste tires pursuant to the bid shall submit to the director an application for reimbursement, including:

- (a) the number of tons of waste tires transported;
 - (b) the location they were removed from;
 - (c) the recycler where the waste tires were delivered; and
 - (d) the amount charged by the transporter or recycler.
- (6) Upon receipt of the information required under Subsection R315-320-7(4) or R315-320-7(5), and determination that the information is complete, the director shall, within 30 days after receipt, authorize the division of finance to reimburse the waste tire transporter or recycler.
- (7) A person reimbursed for the removal of a waste tire pile under Section R315-320-7 may not be reimbursed for storage of those waste tires under Section R315-320-3 or recycling of those waste tires under Section R315-320-6.

KEY: solid waste management, waste disposal

Date of Last Change: April 25, 2013

Notice of Continuation: November 30, 2022

Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-819

WASTE MANAGEMENT AND RADIATION CONTROL BOARD
Executive Summary
Final Adoption
UAC R315-124, UAC R315-301, UAC R315-302, UAC R315-304,
UAC R315-306, UAC R315-311, and UAC R315-314
January 11, 2024

<p>What is the issue before the Board?</p>	<p>Approval from the Board is needed for final adoption of proposed changes to R315-124, R315-301, R315-302, R315-304, R315-306, R315-311, and R315-314 of the Utah Administrative Code to correct rule and statutory references and language, clarify rule language, remove requirements that are no longer necessary, add some new requirements to the rules, and add language and requirements to rules as required by legislation passed by the Utah Legislature.</p>
<p>What is the historical background or context for this issue?</p>	<p>At the Board meeting on November 9, 2023, the Board approved the proposed changes to R315-124, R315-301, R315-302, R315-304, R315-306, R315-309, R315-310, R315-311, and R315-314 of the Utah Administrative Code 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, 2023, issue of the Utah State Bulletin (Vol. 2023, 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, 2024. Comments were received that may require changes to UAC R315-309 and UAC R315-310. Because of this, the Division is not seeking approval for final adoption of changes to UAC R315-309 and UAC R315-310. These two rules will be presented to the Board at a future meeting.</p>
<p>What is the governing statutory or regulatory citation?</p>	<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 for the treatment and disposal of solid waste.</p> <p>The rule changes also meet existing DEQ and state rulemaking procedures.</p>
<p>Is Board action required?</p>	<p>Yes. Board approval for final adoption of the rule changes is necessary.</p>
<p>What is the Division Director's recommendation?</p>	<p>The Director recommends the Board approve final adoption of the changes to R315-124, R315-301, R315-302, R315-304, R315-306, R315-311, and R315-314 of the Utah Administrative Code as published in the December 1, 2023, issue of the Utah State Bulletin and set an effective date of January 16, 2024.</p>
<p>Where can more information be obtained?</p>	<p>Please contact Tom Ball by email at tball@utah.gov or by phone at 385-454-5574.</p>

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed November 02, 2023, 12:00 a.m. through November 15, 2023, 11:59 p.m.

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Nancy L. Lancaster, Managing Editor

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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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(c) Each person licensed under Section R313-22-54 shall provide the information specified in Subsections R313-22-55(1)(c)(i) and R313-22-55(1)(c)(ii) to each person to whom source material is transferred for use under Section R313-21-21 or 10 CFR 40.22 for non-Agreement States or equivalent provisions in Agreement State regulations. This information ~~must~~ shall be transferred before the source material is transferred for the first time in each calendar year to the particular recipient. The required information includes:

(i) A copy of Sections R313-21-21 and R313-19-41, or relevant equivalent regulations of the NRC or of the Agreement State.

(ii) Appropriate radiation safety precautions and instructions relating to handling, use, storage, and disposal of the material.

(d) Each person licensed under Section R313-22-54 shall report transfers as follows:

(i) File a report with the ~~the~~ director and with the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555 for any transfers to non-Agreement States. The report shall include the following information:

(A) The name, address, and license number of the person who transferred the source material;

(B) For each general licensee under Section R313-21-21 or 10 CFR 40.22 for non-Agreement States or equivalent Agreement State provisions to whom greater than 50 grams, ~~{}~~0.11 pounds~~}~~, of source material has been transferred in a single calendar quarter, the name and address of the general licensee to whom source material is distributed; a responsible agent, by name or position or both and phone number, of the general licensee to whom the material was sent; and the type, physical form, and quantity of source material transferred; and

(C) The total quantity of each type and physical form of source material transferred in the reporting period to any~~all such~~ generally licensed recipients.

(ii) File a report with:

(A) Each responsible Agreement State agency that identifies ~~all persons~~ each person, operating under provisions equivalent to 10 CFR 40.22 (2016), to whom greater than 50 grams, ~~{}~~0.11 pounds~~}~~, of source material has been transferred within a single calendar quarter; or

(B) The U.S. Nuclear Regulatory Commission for non-Agreement States, that identifies ~~all persons~~ each person, operating under 10 CFR 40.22 (2016), to whom greater than 50 grams, ~~{}~~0.11 pounds~~}~~, of source material has been transferred within a single calendar quarter.

(C) The report shall include the following information specific to those transfers made to the Agreement State being reported to:

(I) The name, address, and license number of the person who transferred the source material; and

(II) The name and address of the general licensee to whom source material was distributed; a responsible agent, by name ~~and~~ or position or both and phone number, of the general licensee to whom the material was sent; and the type, physical form, and quantity of source material transferred~~[-]; and~~

(III) The total quantity of each type and physical form of source material transferred in the reporting period to any~~all such~~ generally licensed recipients within the Agreement State or non-Agreement State.

(iii) Submit each report by January 31 of each year covering ~~all~~ any transfers for the previous calendar year. If no transfers were made to a ~~person[s]~~ generally licensed under Section

R313-21-21 or 10 CFR 40.22, or equivalent Agreement State provisions during the current period, a report shall be submitted to the ~~the~~ director indicating so. If no transfers have been made to general licensees in a particular Agreement State or non-Agreement State during the reporting period, this information shall be reported to the responsible Agreement State agency or the U.S. Nuclear Regulatory Commission upon request of the agency or Commission.

(e) Each person licensed under Section R313-22-54 shall maintain ~~all~~ any information that supports the reports required by Section R313-22-55 concerning each transfer to a general licensee for a period of one year after the event is included in a report to the ~~the~~ director.

KEY: specific licenses, decommissioning, broad scope, radioactive materials

Date of Last Change: 2024~~August 9, 2019~~

Notice of Continuation: April 8, 2021

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

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R315-124	Filing ID: 56178

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Waste Management	
Room number:	2nd Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	385-454-5574	tball@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:
R315-124. Procedures for Decisionmaking
3. Purpose of the new rule or reason for the change:
This rule is being amended to require the Division of Waste Management and Radiation Control, Waste Management (Division) to follow the requirements of Rule R315-124 in addition to the requirements found in Rule R315-311 for

permit actions taken by the Director for nonhazardous, solid waste facilities.

The amendments also place clarifying language in the rule and provide the Director with the option to submit a request to modify, revoke, and reissue, or terminate a permit to public notice and public comment.

4. Summary of the new rule or change:

Rules R315-301 through R315-320 are being added to the list of rules in Section R315-124-1 indicating that Rule R315-124 applies to actions taken by the Director under the solid waste rules.

Citations to various solid waste program rules contained in Rules R315-301 through R315-320 have been added at appropriate locations throughout Rule R315-124 as necessary to connect or exempt the solid waste rules to the requirements of Rule R315-124.

Subsection R315-124-5(b) is being amended to give the Director the option to submit a request to modify, revoke and reissue, or terminate a permit to public notice and public comment. Language is also being added to clarify that the Director's decision to deny a request constitutes a permit order under Rule R305-7.

Subsection R315-124-5(c)(1) is amended to clarify that a decision to revoke and reissue a permit only applies to hazardous waste facility permits.

Subsection R315-124-5(c)(3) is being amended to include minor modifications defined in Subsection R315-311-2(1).

Subsection R315-124-5(d) is being amended to include Subsection R315-311-2(3) as one of the rules that allow the Director to terminate a permit.

Subsection R315-124-6(d) is being amended to clarify that some of these requirements apply only to hazardous waste facilities.

Subsection R315-124-10(a)(2) is being amended to clarify that unless the Director decides to submit a request to public notice, comment or hearing as allowed under the amended Subsection R315-124-5(b), no public notice is required if a request is denied.

Subsection R315-124-10(c)(2)(ii) is being amended so that newspaper notices are required for both hazardous waste facilities and non-hazardous solid waste facilities, but radio notice is only required for hazardous waste facilities.

Subsection R315-124-19(a)(1) is being amended to direct the reader to the proper rules for filing an appeal from a decision to terminate a permit.

Subsection R315-124-20(e) is being added to the rule to clarify that computations of time specified in Section R315-

124-20 do not supersede the computations of time found in Rule R305-7.

Subsection R315-124-31(a) and Subsection R315-124-32(a) are being amended to make it clear that Sections R315-124-31 and R315-124-32 are applicable to hazardous waste management units but not to nonhazardous solid waste management facilities.

Fiscal Information

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

A) State budget:

It is not anticipated that there will be any cost or savings to the state budget based on this amended rule because the rule does not add any new requirements for state agencies.

B) Local governments:

It is not anticipated that the amendment of this rule will result in any cost or savings to local governments because this rule addresses the actions to be taken by the Director of the Division and not by any local government agencies.

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

It is not anticipated that the amendment of this rule will result in any cost or savings to small businesses because this rule addresses the actions to be taken by the Director of the Division and not by any small businesses.

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

It is not anticipated that the amendment of this rule will result in any cost or savings to non-small businesses because this rule addresses the actions to be taken by the Director of the Division and not by any non-small businesses.

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 the amendment of this rule will result in any cost or savings to persons other than small businesses, non-small businesses, state, or local governments because this rule addresses the actions to be taken by the Director of the Division and not by any persons other than small businesses, non-small businesses, state, or local governments.

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

It is not anticipated that the amendment of this rule will result in any new compliance costs for persons who must comply with this rule.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Environmental Quality, Kimberly Shelley, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 19-6-104	Section 19-6-105	Section 19-6-108
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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.)

A) Comments will be accepted until:	01/03/2024
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9. This rule change MAY become effective on:	01/15/2024
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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

Agency head or designee and title:	Douglas J. Hansen, Division Director	Date:	11/09/2023
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R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.

R315-124. Procedures for Decisionmaking.

R315-124-1. Procedures for Decisionmaking -- Applicability.

Unless otherwise stated ~~in~~, Rule R315-124 applies to any actions by the director taken under Rules R315-17, R315-101, R315-102, R315-260 through R315-266, R315-268, R315-270, ~~or~~ R315-273, or R315-301 through R315-320. ~~Rule R315-124 applies to all actions by the Director taken under the rules listed above.~~

R315-124-3. Procedures for Decisionmaking -- Application for a Permit.

(a)(1) Any person who requires a permit, for a hazardous or nonhazardous waste treatment, storage or disposal facility under Section 19-6-108 shall complete, sign, and submit to the ~~D~~director an application for each permit required under Section R315-270-1 or Rule R315-310. Applications are not required for permits by rule ~~under Section R315-270-60 or Rule R315-318.~~

(2) The ~~D~~director is not required to begin the processing of a permit until the applicant has fully complied with the application requirements for that permit ~~as found in Sections R315-270-10, ~~and~~ R315-270-13, and Rule R315-310.~~

(3) Permit applications shall comply with the applicable signature and certification requirements of Section R315- 270-11 or R315-310-2.

(b) Reserved.

(c) The ~~D~~director shall review for completeness every application for a permit. Upon completing the review, the ~~D~~director shall notify the applicant in writing whether the application is complete. If the application is incomplete, the ~~D~~director shall list the information necessary to make the application complete. ~~When~~ If the application is for an existing facility, the ~~D~~director shall specify in the notice of deficiency a date for submitting the necessary information. The ~~D~~director shall notify the applicant that the application is complete upon receiving this information. After the application is completed, the ~~D~~director may request additional information from an applicant to clarify, modify, or supplement previously submitted material. Requests for ~~such~~ additional information will not ~~render~~ make an application incomplete.

NOTICES OF PROPOSED RULES

(d) If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement actions may be taken under applicable provisions of the Utah Solid and Hazardous Waste Act.

(e) If the [D]director decides that a site visit is necessary for any reason in conjunction with the processing of an application, the [D]director shall notify the applicant and a date shall be scheduled.

(f) The effective date of an application is the date [on which]that the [D]director notifies the applicant that the application is complete as provided in Subsection R315-124-3(c).

(g) For each permit application, the [D]director shall, no later than the effective date of the application, prepare and mail to the applicant a schedule [that specifies]of the target dates [by which]that the [D]director intends to:

- (1) [P]prepare a draft permit;
- (2) [G]give public notice;
- (3) [E]complete the public comment period, including any public hearing; and
- (4) [I]issue a final permit.

R315-124-5. Procedures for Decisionmaking -- Modification, Revocation and Reissuance, or Termination of Permits.

(a) Permits may be modified, revoked and reissued, or terminated either at the request of any interested person, including the permittee, or upon the [D]director's initiative. However, permits may only be modified, revoked and reissued, or terminated for the reasons specified in Sections R315-270-41, R315-270-43 or [43]Subsection R315-311-2(1). [A]Each request[s] shall be in writing and shall contain facts or reasons supporting the request.

(b) If the [D]director decides the request to modify, revoke and reissue, or terminate a permit is not justified, the [D]director shall either send the requester a brief written response giving a reason for the decision[~~Denials of requests for modification, revocation and reissuance, or termination are not subject~~] or submit the request to public notice, comment, or hearings. [Denials by t]The [D]director's decision to deny a request constitutes a permit order under Rule R305-7 and may be appealed by following the requirements of Sections R305-7-201 through R305-7-217.

(c)(1) If the [D]director tentatively decides to modify a nonhazardous waste or hazardous waste facility permit or revoke and reissue a hazardous waste facility permit under Section R315-270-41 or Subsection R315-270-42(c), the [D]director shall prepare a draft permit under Section R315-124-6 incorporating the proposed changes. The [D]director may request additional information and, in the case of a modified permit, may require the submission of an updated application. In the case of revoked and reissued permits the [D]director shall require the submission of a new application.

(2) In a permit modification under Section R315-124-5, only those conditions to be modified shall be reopened when a draft permit is prepared. [A]The other aspects of the existing permit shall remain in effect. [When]If a permit is revoked and reissued under Section R315-124-5, the entire permit is reopened just as if the permit had expired and were being reissued. During any revocation and reissuance proceeding the permittee shall comply with [a]the conditions of the existing permit until a new final permit is reissued.

(3) Classes 1 and 2 modifications as defined in Subsections R315-270-42(a)[~~and~~], R315-270-42(b), and minor modifications defined in Subsection R315-311-2(1) are not subject to the requirements of Section R315-124-5.

(d) If the [D]director tentatively decides to terminate a permit under Section R315-270-43 or Subsection R315-311-2(3) the

[D]director shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit [which]that follows the [same]procedures [as any]for a draft permit prepared under Section R315-124-6.

(e) [A]Each draft permit[s], including notices of intent to terminate, prepared under Section R315-124-5 shall be based on the administrative record as defined in Section R315-124-9.

R315-124-6. Procedures for Decisionmaking -- Draft Permits.

(a) Once an application is complete, the [D]director shall tentatively decide whether to prepare a draft permit or to deny the application.

(b) If the [D]director tentatively decides to deny the permit application, the [D]director shall issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit [which]that follows the [same]procedures [as any]for a draft permit prepared under Section R315-124-6. If the [D]director's final decision is that the tentative decision to deny the permit application was incorrect, the [D]director shall withdraw the notice of intent to deny and prepare a draft permit under Subsection R315-124-6(d).

(c) Reserved.

(d) If the [D]director decides to prepare a draft permit, the [D]director shall prepare a draft permit that contains the following information:

(1) [A]each condition[s] under Sections R315-270-30 and R315-270-32 for hazardous waste facilities;

(2) [A]each compliance schedule[s] under Section R315-270-33 for hazardous waste facilities;

(3) [A]the monitoring requirements under Section R315-270-31 for hazardous waste facilities;

(4) [A]the information required for permits issued under Rules R315-15, R315-17, and R315-301 through R315-320; and

(5) [S]standards for treatment, storage, and[~~or~~] disposal, or any combination of the three, and other permit conditions under Section R315-270-30[;] for hazardous waste facilities.

(e) [A]Each draft permit[s] prepared by the [D]director under Section R315-124-6 shall be accompanied by a statement of basis or fact sheet, and shall be based on the administrative record, publicly noticed and made available for public comment. The [D]director shall give notice of opportunity for a public hearing, issue a final decision, and respond to comments.

R315-124-7. Procedures for Decisionmaking -- Statement of Basis.

The [D]director shall prepare a statement of basis for every draft permit [for which]that a fact sheet under Section R315-124-8 is not prepared. The statement of basis shall briefly describe the conditions of the draft permit and the reasons for them or, in the case of notices of intent to deny or terminate, reasons supporting the tentative decision. The statement of basis shall be sent to the applicant and, on request, to any other person.

R315-124-8. Procedures for Decisionmaking -- Fact Sheet.

(a) A fact sheet shall be prepared for every draft permit [where]if a statement of basis is not prepared. The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit. The [D]director shall send this fact sheet to the applicant and, on request, to any other person.

(b) The fact sheet shall include, when applicable:

(1) [A]a brief description of the type of facility or activity [which]that is the subject of the draft permit;

(2) [F]the type and quantity of wastes, fluids, or pollutants [which]that are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged[-];

(3) Reserved;

(4) [A]a brief summary of the basis for the draft permit conditions, including references to applicable statutory or regulatory provisions and appropriate supporting references to the administrative record required by Section R315-124-9;

(5) [R]reasons why any requested variances or alternatives to required standards were granted or denied;

(6) [A]a description of the procedures for reaching a final decision on the draft permit including:

(i) [F]the beginning and ending dates of the comment period under Section R315-124-10 and the address where comments will be received;

(ii) [P]procedures for requesting a hearing and the nature of that hearing; and

(iii) [A]any other procedures [by which]that the public may participate in the final decision[-];

(7) [N]name and telephone number of a person to contact for additional information.

R315-124-9. Procedures for Decisionmaking -- Administrative Record for Draft Permits.

(a) The provisions of a draft permit prepared by the [D]director under Section R315-124-6 shall be based on the administrative record defined in Section R305-7-209 and Section R315-124-18.

(b) Section R315-124-9 applies to [all]draft permits when public notice was given after the effective date of Rule R315-124.

R315-124-10. Procedures for Decisionmaking -- Public Notice of Permit Actions and Public Comment Period.

(a) Scope.

(1) The [D]director shall give public notice that the following actions have occurred:

(i) [A]a permit application has been tentatively denied under Subsection R315-124-6(b); or

(ii) [A]a draft permit has been prepared under Subsection R315-124-6(d); or

(iii) [A]a hearing has been scheduled under Section R315-124-12;

(2) Unless the director decides to submit the request to public notice, comment, or hearing under Subsection R315-124-5(b), [N]no public notice is required [when]if a request for permit modification, revocation and reissuance, or termination is denied under Subsection R315-124-5(b). Written notice of that denial shall be given to the requester and to the permittee.

(3) Public notices may describe more than one permit or permit actions.

(b) Timing.

(1) Public notice of the preparation of a draft permit, including a notice of intent to deny a permit application, required under Subsection R315-124-10(a) shall allow at least 45 days for public comment.

(2) Public notice of a public hearing shall be given at least 30 days before the hearing. Public notice of the hearing may be given at the [same]time [as]of the public notice of the draft permit and the two notices may be combined.

(c) Methods. Public notice of activities described in Subsection R315-124-10(a)(1) shall be given by the following methods:

(1) [B]by mailing or electronic mailing a copy of a notice to the following persons:

(i) [F]the applicant;

(ii) [A]any other agency [which]that the [D]director knows has issued or is required to issue a permit for the [same]facility or activity including EPA;

(iii) [F]federal and [S]state agencies with jurisdiction over fish, shellfish, and wildlife resources, [S]state [H]historic [P]preservation [O]officers, including any affected [S]states, and [I]indian [T]tribes[-];

(iv) through (viii) Reserved;

(ix) [P]persons on a mailing list developed by:

(A) [I]including those who request in writing to be on the list;

(B) [S]soliciting persons for ["]area lists["] from participants in past permit proceedings in that area; and

(C) [N]notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in [such]publications such as [R]regional and [S]state funded newsletters, environmental bulletins, [S]state law journals, or through the [D]department web page. The [D]director may update the mailing list from time to time by requesting written indication of continued interest from those listed. The [D]director may delete from the list the name of any person who fails to respond to such a request.

(x)(A) [F]to any unit of local government having jurisdiction over the area where the facility is proposed to be located; and

(B) to each [S]state agency having any authority under [S]state law with respect to the construction or operation of [such]the facility[-];

(2)(i) Reserved;

(ii) [P]publication of a notice in a daily or weekly major local newspaper of general circulation for hazardous waste facilities and nonhazardous solid waste management facilities and broadcast over local radio stations for hazardous waste facilities[-];

(3) [I]in a manner constituting legal notice to the public under [S]state law; and

(4) [A]any other method reasonably calculated to give [actual]notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.

(5) Any person otherwise entitled to receive notice under Subsection R315-124-10(c) may waive [his or her]their rights to receive notice for any classes and categories of permits.

(d) Contents.

(1) [All]Each public notice[s] issued under Rule R315-124 shall contain the following minimum information:

(i) Division of Waste Management and Radiation Control, P.O. Box 144880, Salt Lake City, Utah 84114-4880;

(ii) [N]name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;

(iii) [A]a brief description of the business conducted at the facility or activity described in the permit application or the draft permit;

(iv) [N]name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit, statement of basis or fact sheet, and the application; and

(v) [A]a brief description of the comment procedures required by Sections R315-124-11 and R315-124-12 and the time and place of any hearing that will be held, including a statement of

procedures to request a hearing, unless a hearing has already been scheduled, and other procedures ~~[by which] that~~ the public may participate in the final permit decision~~[-]; and~~

(vi) through (ix) Reserved;

(x) ~~[A]~~any additional information considered necessary or proper.

(2) Public notices for hearings. In addition to the general public notice described in Subsection R315-124-10(d)(1), the public notice of a hearing under Section R315-124-12 shall contain the following information:

(i) ~~[R]~~reference to the date of previous public notices relating to the permit;

(ii) ~~[D]~~date, time, and place of the hearing; and

(iii) ~~[A]~~a brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

(e) In addition to the general public notice described in Subsection R315-124-10(d)(1), ~~[aH]the~~ persons identified in Subsections R315-124-10(c)(1)~~[-](i), R315-124-10(c)(1)(ii), and R315-124-10(c)(1)(iii)~~ shall be mailed or provided electronically a copy of the fact sheet or statement of basis.

R315-124-11. Procedures for Decisionmaking -- Public Comments and Requests for Public Hearings.

During the public comment period provided under Section R315-124-10, any interested person may submit written comments on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. ~~[A]Each~~ comment~~[s]~~ shall be considered in making the final decision and shall be answered as provided in Section R315-124-17.

R315-124-12. Procedures for Decisionmaking -- Public Hearings.

(a)(1) The ~~[D]~~director shall hold a public hearing when~~[ever]~~ the ~~[D]~~director finds, on the basis of requests, a significant degree of public interest in a draft permit~~(~~+~~) or permits;~~

(2) The ~~[D]~~director may also hold a public hearing at the ~~[D]~~director's discretion, when~~[ever]~~, for instance, such a hearing might clarify one or more issues involved in the permit decision;

(3)(i) ~~[t]~~The ~~[D]~~director shall hold a public hearing when~~[ever]~~ the ~~[D]~~director receives written notice of opposition to a draft permit and a request for a hearing within 45 days of public notice under Subsection R315-124-10(b)(1);

(ii) ~~[w]~~When~~[ever]~~ possible the ~~[D]~~director shall schedule a hearing under Section R315-124-12 at a location convenient to the nearest population center to the proposed facility;

(4) Public notice of the hearing shall be given as specified in Section R315-124-10.

(b) When~~[ever]~~ a public hearing will be held, the ~~[D]~~director shall designate a ~~[P]~~presiding ~~[O]~~officer for the hearing who shall be responsible for its scheduling and orderly conduct.

(c) Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under Section R315-124-10 shall automatically be extended to the close of any public hearing under Section R315-124-12. The ~~[hearing]~~presiding officer may also extend the comment period by so stating at the hearing.

(d) An electronic recording or written transcript of the hearing shall be made available to the public.

R315-124-13. Procedures for Decisionmaking -- Obligation to Raise Issues and Provide Information During the Public Comment Period.

~~[A]Each~~ person~~[s]~~, including applicants, who believe any condition of a draft permit is inappropriate or that the ~~[D]~~director's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, shall raise ~~[aH]any~~ reasonably ascertainable issues and submit ~~[aH]each~~ reasonably available argument~~[s]~~ supporting their position by the close of the public comment period, including any public hearing, under Section R315-124-10. Any supporting materials ~~[which] that~~ are submitted shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the ~~[same]~~proceeding, or consist of ~~[S]~~state or ~~[F]~~federal statutes and regulations, EPA or ~~[D]~~division documents of general applicability, or other generally available reference materials. Commenters shall make supporting materials not already included in the administrative record available to the ~~[D]~~director as directed by the ~~[D]~~director and consistent with Section R305-7-209. A comment period longer than 45 days may be necessary to give commenters a reasonable opportunity to comply with the requirements of Section R315-124-13. Additional time shall be granted under Section R315-124-10 to the extent that a commenter who requests additional time demonstrates the need for ~~[such]additional~~ time.

R315-124-15. Procedures for Decisionmaking -- Issuance and Effective Date of Permit.

(a) After the close of the public comment period under Section R315-124-10 on a draft permit, the ~~[D]~~director shall issue a final permit decision, or a decision to deny a permit for the active life of a hazardous waste management facility or unit under Section R315-270-29. The ~~[D]~~director shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures for appealing a decision on a hazardous waste permit or a decision to terminate a hazardous waste permit. For the purposes of Section R315-124-15, a final permit decision means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.

(b) A final permit decision, or a decision to deny a permit for the active life of a hazardous waste management facility or unit under Section R315-270-29, shall become effective upon issuance, unless:

(1) ~~[A]~~a later effective date is specified in the decision; or

(2) ~~[R]~~review is requested on the permit under Rule R305-7 and a stay is granted under Subsection 19-1-301.5(~~[16]~~17).

R315-124-16. Procedures for Decisionmaking -- Stays of Contested Permit Conditions.

The provisions covering appeals and stays are found in Rule R305-7 and Subsection 19-1-301.5(~~[16]~~17).

R315-124-17. Procedures for Decisionmaking -- Response to Comments.

(a) ~~[At the time that]~~When any final permit decision is issued under Section R315-124-15, the ~~[D]~~director shall issue a response to comments. This response shall:

(1) ~~[S]~~specify ~~[which]the~~ provisions, if any, of the draft permit ~~that~~ have been changed in the final permit decision, and the reasons for the change; and

(2) ~~[B]~~briefly describe and respond to ~~[aH]each~~ significant comment~~[s]~~ on the draft permit or the permit application raised during the public comment period, or during any hearing.

(b) Any documents cited in the response to comments shall be included in the administrative record for the final permit decision as defined in Section R315-124-18. If new points are raised or new material supplied during the public comment period, the [D]director may document the response to those matters by adding new materials to the administrative record.

R315-124-18. Procedures for Decisionmaking -- Administrative Record for Final Permit.

(a) The [D]director shall base final permit decisions under Section R315-124-15 on the administrative record defined in Section R315-124-18.

(b) The administrative record for any final permit shall consist of the administrative record for the draft permit and:

(1) [A]any comments received during the public comment period provided under Section R315-124-10;

(2) [F]the recording or transcript of any hearing[~~(s)~~] held under Section R315-124-12;

(3) [A]any written materials submitted at such a hearing;

(4) [F]the response to comments required by Section R315-124-17 and any new material placed in the record under that section;

(5) Reserved;

(6) [O]other documents contained in the supporting file for the permit; and

(7) [F]the final permit.

(c) The additional documents required under Subsection R315-124-18(b) should be added to the record as soon as possible after their receipt or publication by the [D]division. The record shall be complete on the date the final permit is issued.

(d) Section R315-124-18 applies to [a]any final permits [when]if the draft permit was subject to the administrative record requirements of Section R315-124-9.

(e) Material readily available at the [D]division [O]office, or published materials [which]that are generally available and [which]that are included in the administrative record under the standards of Section R315-124-18 or R315-124-17, need not be physically included in the [same-]file [as]with the rest of the record as long as it is specifically referred to in the statement of basis or fact sheet or in the response to comments.

R315-124-19. Procedures for Decisionmaking -- Appeal of Permits.

(a) Petitioning for review of a permit decision.

(1) Initiating an appeal. Except for a decision to terminate a permit, [A]appeal from a final permit decision issued under Section R315-124-15, or a decision to deny a permit for the active life of a hazardous waste management facility or unit under Section R315-270-29 is commenced by filing a [Request for Agency Action]Petition for Review as described in [Rule]Section R305-7-203. In accordance with Subsection 19-1-301.5(1)(f)(ii) appeal from a decision to terminate a permit is commenced by filing a Request for Agency Action as described in Rule R305-7.

R315-124-20. Procedures for Decisionmaking -- Computation of Time.

(a) Any time period scheduled to begin on the occurrence of an act or event shall begin on the day after the act or event.

(b) Any time period scheduled to begin before the occurrence of an act or event shall be computed so that the period ends on the day before the act or event.

(c) If the final day of any time period falls on a weekend or legal holiday, the time period shall be extended to the next working day.

(d) When[ever] an [party or-]interested person [has the right or is required to]may or shall act within a prescribed period after the service of notice or other paper upon [him or her]the interested person by mail, [3]three days shall be added to the prescribed time.

(e) The computations of time specified in Section R315-124-20 do not supersede the computations of time in Rule R305-7.

R315-124-31. Procedures for Decisionmaking -- Pre-Application Public Meeting and Notice.

(a) Applicability. The requirements of Section R315-124-31 shall apply to [a]any part B applications seeking initial permits for hazardous waste management units. The requirements of Section R315-124-31 shall also apply to part B applications seeking renewal of permits for [such]hazardous waste management units[~~-~~] [where]if the renewal application is proposing a significant change in facility operations. For the purposes of Section R315-124-31, a [“]significant change[”] is any change that would qualify as a class 3 permit modification under Section R315-270-42. The requirements of Section R315-124-31 do not apply to permit modifications under Section R315-270-42, a nonhazardous solid waste management facility, or to applications that are submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

(b) [Prior to]Before the submission of a part B permit application for a facility, the applicant shall hold at least one meeting with the public [in order-]to solicit questions from the community and inform the community of proposed hazardous waste management activities. The applicant shall post a sign-in sheet or otherwise provide a voluntary opportunity for attendees to provide their names and addresses.

(c) The applicant shall submit a summary of the meeting, along with the list of attendees and their addresses developed under Subsection R315-124-31(b), and copies of any written comments or materials submitted at the meeting, to the [D]director as a part of the part B application, in accordance with Subsection R315-270-14(b).

(d) The applicant shall provide public notice of the pre-application meeting at least 30 days [prior to]before the meeting. The applicant shall maintain, and provide to the [D]director upon request, documentation of the notice.

(1) The applicant shall provide public notice in [a]each of the following forms:

(i) A newspaper notice. The applicant shall publish a notice, fulfilling the requirements in Subsection R315-124-31(d)(2), in a newspaper of general circulation in the county or equivalent jurisdiction that hosts the proposed location of the facility. In addition, the [D]director shall instruct the applicant to publish the notice in newspapers of general circulation in adjacent counties or equivalent jurisdictions, [where]if the [D]director determines that [such]the publication is necessary to inform the affected public.

(ii) A visible and accessible sign. The applicant shall post a notice on a clearly marked sign at or near the facility, fulfilling the requirements in Subsection R315-124-31(d)(2). If the applicant places the sign on the facility property, then the sign shall be large enough to be readable from the nearest point where the public would pass by the site.

(iii) A broadcast media announcement. The applicant shall broadcast a notice, fulfilling the requirements in Subsection R315-124-31(d)(2), at least once on at least one local radio station or

television station. The applicant may ~~employ~~ use another medium with prior approval of the ~~D~~ director.

(iv) A notice to the permitting agency. The applicant shall send a copy of the newspaper notice to the ~~D~~ director and to the appropriate local government, in accordance with Subsection R315-124-10(c)(1)(x).

(2) The notices required under Subsection R315-124-31(d)(1) shall include:

(i) ~~F~~ the date, time, and location of the meeting;

(ii) ~~A~~ a brief description of the purpose of the meeting;

(iii) ~~A~~ a brief description of the facility and proposed operations, including the address or a map, ~~e.g.~~ for example, a sketched or copied street map, of the facility location;

(iv) ~~A~~ a statement encouraging people to contact the facility at least 72 hours before the meeting if they need special access to participate in the meeting; and

(v) ~~F~~ the name, address, and telephone number of a contact person for the applicant.

R315-124-32. Procedures for Decisionmaking -- Public Notice Requirements at the Application Stage.

(a) Applicability. The requirements of Section R315-124-32 shall apply to ~~all~~ part B applications seeking initial permits for hazardous waste management units. The requirements of Section R315-124-32 shall also apply to part B applications seeking renewal of permits for ~~such~~ hazardous waste management units under Section R315-270-51. The requirements of Section R315-124-32 do not apply to permit modifications under Section R315-270-42, a nonhazardous solid waste facility, or permit applications submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

(b) Notification at application submittal.

(1) The ~~D~~ director shall provide public notice as set forth in Subsection R315-124-10(c)(1)(ix), and notice to appropriate units of ~~S~~ state and local government as set forth in Subsection R315-124-10(c)(1)(x), that a part B permit application has been submitted to the ~~D~~ director and is available for review.

(2) The notice shall be published within a reasonable period ~~of time~~ after the application is received by the ~~D~~ director. The notice shall include:

(i) ~~F~~ the name and telephone number of the applicant's contact person;

(ii) ~~F~~ the name and telephone number of the ~~D~~ division, and a mailing address ~~to which~~ where information, opinions, and inquiries may be directed throughout the permit review process;

(iii) ~~A~~ an address or email address ~~to which~~ where people can write ~~in order~~ to be put on the facility mailing list;

(iv) ~~F~~ the location where copies of the permit application and any supporting documents can be viewed and copied;

(v) ~~A~~ a brief description of the facility and proposed operations, including the address or a map, ~~e.g.~~ for example, a sketched or copied street map, of the facility location on the front page of the notice; and

(vi) ~~F~~ the date that the application was submitted.

(c) Concurrent with the notice required under Subsection R315-124-32(b), the ~~D~~ director shall place the permit application and any supporting documents in a location accessible to the public in the vicinity of the facility or at the ~~D~~ division's office.

R315-124-33. Procedures for Decisionmaking -- Information Repository.

(a) Applicability. The requirements of Section R315-124-33 apply to ~~all~~ applications seeking permits for hazardous waste management units.

(b) The ~~D~~ director may assess the need, on a case-by-case basis, for an information repository. When assessing the need for an information repository, the ~~D~~ director shall consider a variety of factors, including: the level of public interest; the type of facility; the presence of an existing repository; and the proximity to the nearest copy of the administrative record. If the ~~D~~ director determines, at any time after submittal of a permit application, that there is a need for a repository, then the ~~D~~ director shall notify the facility that it shall establish and maintain an information repository. See Subsection R315-270-30(m) for similar provisions relating to the information repository during the life of a permit.

(c) The information repository shall contain ~~all~~ the documents, reports, data, and information deemed necessary by the ~~D~~ director to fulfill the purposes ~~for which~~ of the repository ~~is established~~. The ~~D~~ director shall have the discretion to limit the contents of the repository.

(d) The information repository shall be located and maintained at a site chosen by the facility. If the ~~D~~ director finds the site unsuitable for the purposes and persons ~~for which~~ that it was established, due to problems with the location, hours of availability, access, or other relevant considerations, then the ~~D~~ director shall specify a more appropriate site.

(e) The ~~D~~ director shall specify requirements for informing the public about the information repository. At a minimum, the ~~D~~ director shall require the facility to provide a written notice about the information repository to ~~all~~ the individuals on the facility mailing list.

(f) The facility owner ~~or~~ operator shall be responsible for maintaining and updating the repository with appropriate information throughout a time period specified by the ~~D~~ director. The ~~D~~ director may close the repository at the ~~D~~ director's discretion, based on the factors in Subsection R315-124-33(b).

R315-124-34. Public Participation.

In addition to hearings required under the ~~S~~ state Administrative Procedures Act and proceedings otherwise outlined or referenced in ~~these rules~~ Rule R315-124, the ~~D~~ director will investigate and provide written response to ~~all~~ any citizen complaints ~~duly~~ submitted. In addition, the ~~D~~ director ~~shall~~ may not oppose intervention in any civil or administrative proceeding by any citizen ~~where~~ if permissive intervention may be authorized by statute, rule or regulation. The ~~D~~ director shall publish notice of and provide at least 30 days for public comment on any proposed settlement of any enforcement action.

KEY: hazardous waste

Date of Last Change: 2024~~February 17, 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 FILING: Amendment		
Rule or Section Number:	R315-301	Filing ID: 56180

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Waste Management	
Room number:	2nd Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	385-454-5574	tball@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R315-301. Solid Waste Authority, Definitions, and General Requirements
3. Purpose of the new rule or reason for the change:
The Division of Waste Management and Radiation Control, Waste Management (Division) is amending this rule to correct rule and statutory references that have changed due to other rule and statute amendments, providing clarifying language, and amending rule language in accordance with legislation. The Division is also correcting typographical and rule formatting errors.
4. Summary of the new rule or change:
The statutory citation found in Subsection R315-301-2(7) to Subsection 19-6-102(3)(a)(iii) is being corrected to reference Subsection 19-6-102(3)(b)(iii). Clarifying language is being added to Subsection R315-301-2(12) to direct readers to the definition of commercial nonhazardous solid waste landfill. The statutory citation found in Subsection R315-301-2(35) to Subsection 19-6-102(18)(b) is being corrected to reference Subsection 19-6-102(19). Language is being added to Subsection R315-301-4(4)(b) to clarify that Rules R315-301 through R315-320 do not apply to the disposal of mine tailings and overburden at the site of generation.

Language is being added to Section R315-301-4 as required by H.B. 301 that was passed during the 2019 General Session of the Utah Legislature.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
It is not anticipated that there will be any cost or savings to the state budget based on this rule amendment because the state does not operate any solid waste facilities that would be affected by the amendments.
B) Local governments:
It is not anticipated that there will be any cost or savings to local governments based on this rule amendment because the amendments mainly clarify rule language and there are no local government operated solid waste facilities that would be affected by the amendments. Some of the added exemptions in Subsection R315-301-4(4) may result in cost savings for entities that generate those types of waste.
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 any small businesses based on this rule amendment because the amendments mainly clarify rule language and there are no small businesses operated solid waste facilities that would be affected by the amendments. Some of the added exemptions in Subsection R315-301-4(4) may result in cost savings for entities that generate those types of waste.
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 any non-small businesses based on this rule amendment because the amendments mainly clarify rule language and there are no non-small businesses operated solid waste facilities that would be affected by the amendments. Some of the added exemptions in Subsection R315-301-4(4) may result in cost savings for entities that generate those types of waste.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):
It is not anticipated that there will be any cost or savings to any persons other than small businesses, non-small businesses, state, or local government entities based on

this rule amendment because the amendments mainly clarify rule language and there are no solid waste facilities operated by any persons other than small businesses, non-small businesses, state, or local government entities that would be affected by the amendments.

Some of the added exemptions in Subsection R315-301-4(4) may result in cost savings for entities that generate those types of waste.

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

It is not anticipated that there will be any costs for affected persons who must comply with this amended rule because the amendments mainly clarify rule language.

Some of the added exemptions in Subsection R315-301-4(4) may result in cost savings for entities that generate those types of waste.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0

Net Benefits	Fiscal \$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Department of Environmental Quality, Kim Shelley, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 19-6-105	Section 19-6-108	Section 19-6-109

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	01/03/2024

9. This rule change MAY become effective on:	01/15/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	Date:	11/09/2023
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R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.

R315-301. Solid Waste Authority, Definitions, and General Requirements.

R315-301-2. Definitions.

Terms used in Rules R315-301 through R315-320 are defined in Sections 19-1-103, 19-6-102, and 19-6-803. In addition, [for the purpose of]the following definitions apply to Rules R315-301 through R315-320[, the following definitions apply].

(1) "Active area" means that portion of a facility where solid waste recycling, reuse, treatment, storage, or disposal operations are being conducted.

(2) "Airport" means a public[-]use airport open to the public without prior permission and without restrictions within the physical capacities of available facilities.

(3) "Aquifer" means a geological formation, group of formations, or portion of a formation that contains sufficiently saturated permeable material to yield [usable]usable quantities of [ground water]groundwater to wells or springs.

(4) "Areas susceptible to mass movement" means those areas of influence, characterized as having an active or substantial possibility of mass movement, where the movement of earth material at, beneath, or adjacent to the landfill unit, because of natural or

human[-]induced events, results in the downslope transport of soil and rock material by ~~means of~~ gravitational influence. Areas of mass movement include landslides, avalanches, debris slides and flows, soil fluction, block sliding, and rock falls.

(5) "Asbestos waste" means friable asbestos, which is any material containing more than 1% asbestos as determined using the method specified in Appendix A, 40 CFR Part 763.1, 2001 ed., which is ~~adopted and~~ incorporated by reference, that ~~when~~ if dry, can be crumbled, pulverized, or reduced to powder by hand pressure.

(6) "Background concentration" means the concentration of a contaminant in ~~ground water~~ groundwater upgradient or a lateral hydraulically equivalent point from a facility, practice, or activity, and which has not been affected by that facility, practice, or activity.

(7) "Class I Landfill" means a non[-]commercial landfill or a landfill that meets the definition found in Subsection 19-6-102(3)~~(a)~~(b)(iii) and is permitted by the ~~D~~director;

(a) to receive for disposal:

(i) municipal solid waste;

(ii) any other nonhazardous solid waste, not otherwise limited by rule or solid waste permit; or

(iii) in conjunction with municipal solid waste or other nonhazardous solid waste, waste from a very small quantity generator of hazardous waste, as defined by Section R315-260-10; and

(b) does not meet the standards of Subsection R315-303-3(3)(e)(v).

(8) "Class II Landfill" means a non[-]commercial landfill or a landfill that is permitted by the ~~D~~director;

(a) to receive for disposal:

(i) municipal solid waste;

(ii) any other nonhazardous solid waste, not otherwise limited by rule or solid waste permit; or

(iii) in conjunction with municipal solid waste or other nonhazardous solid waste, waste from a very small quantity generator of hazardous waste, as defined by Section R315-260-10[-]; and

(b) meets the standards of Subsection R315-303-3(3)(e)(v).

(9) "Class III Landfill" means a non[-]commercial landfill that is permitted by the ~~D~~director to receive for disposal only industrial solid waste.

(10) "Class IV Landfill" means a non[-]commercial landfill that is permitted by the ~~D~~director to receive for disposal only:

(a) construction~~[f]~~ or demolition waste;

(b) yard waste;

(c) inert waste;

(d) dead animals, as approved by the ~~D~~director and upon meeting the requirements of Section R315-315-6;

(e) waste tires and materials derived from waste tires, upon meeting the requirements of Section 19-6-804 and Section R315-320-3; and

(f) petroleum[-]contaminated soils, upon meeting the requirements of Subsection R315-315-8(3).

(11) "Class V Landfill" means a commercial nonhazardous solid waste disposal facility, as defined by Subsection 19-6-102(3), that is permitted by the ~~D~~director to receive for disposal:

(a) municipal solid waste;

(b) any other nonhazardous solid waste, not otherwise limited by rule or solid waste permit; and

(c) in conjunction with municipal solid waste or other nonhazardous solid waste, waste from a very small quantity generator of hazardous waste, as defined by Section R315-260-10.

(12) "Class VI Landfill" means a commercial nonhazardous solid waste landfill, as defined by Subsection 19-6-102(3), that is permitted by the ~~D~~director to receive for disposal only:

(a) construction~~[f]~~ or demolition waste, excluding waste from a very small quantity generator of hazardous waste, as defined by Section R315-260-10;

(b) yard waste;

(c) inert waste;

(d) dead animals, as approved by the ~~D~~director and upon meeting the requirements of Section R315-315-6;

(e) waste tires and materials derived from waste tires, upon meeting the requirements of Section 19-6-804 and Subsection R315-320-3(1) or R315-320-3(2); and

(f) petroleum[-]contaminated soils, upon meeting the requirements of Subsection R315-315-8(3).

(g) A Class VI Landfill may not receive for disposal:

(i) hazardous waste;

(ii) construction~~[f]~~ or demolition waste containing PCBs, except as allowed by Section R315-315-7;

(iii) garbage;

(iv) municipal solid waste; or

(v) industrial solid waste.

(h) The wastes received at a Class VI Landfill may be further limited by a solid waste permit.

(i) A Class VI Landfill may not change to a Class V Landfill except by meeting ~~all~~ each requirement[s] for a Class V Landfill including obtaining a new Class V Landfill permit and completing the requirements specified in Subsection R315-310-3(2).

(13) "Closed facility" means any facility that no longer receives solid waste and has completed an approved closure plan, and any landfill on which an approved final cover has been installed.

(14) "Commercial solid waste" means ~~all~~ any type[s] of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding household waste and industrial wastes.

(15) "Composite liner" means a liner system consisting of two components[-]; the upper component consisting of a synthetic flexible membrane liner, and the lower component consisting of a layer of compacted soil. The composite liner ~~must~~ shall have the synthetic flexible membrane liner installed in direct and uniform contact with the compacted soil component and be constructed of specified materials and compaction to meet specified permeabilities.

(16) "Composting" means a method of solid waste management whereby the organic component of the waste stream is biologically decomposed under controlled aerobic conditions, at a temperature of 140 degrees Fahrenheit, [~~60~~ 60 degrees Celsius], or higher, for at least ~~some~~ part of each day of a consecutive seven day period, to a state in which the end product or compost can be handled, stored, or applied to the land without adversely affecting human health or the environment.

(17) "Construction~~[f]~~ or demolition waste" means solid waste from building materials, packaging, and rubble resulting from construction, remodeling, repair, abatement, rehabilitation, renovation, and demolition operations on pavements, houses, commercial buildings, and other structures, including waste from a very small quantity generator of hazardous waste, as defined by Section R315-260-10, that may be generated by these operations.

(a) ~~Such~~ This waste may include:

(i) concrete, bricks, and other masonry materials;

(ii) soil and rock;

(iii) waste asphalt;

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- (iv) rebar contained in concrete; and
- (v) untreated wood, and tree stumps.
- (b) Construction^[4] or demolition waste does not include:
 - (i) friable asbestos;
 - (ii) treated wood; or
 - (iii) contaminated soils or tanks resulting from remediation or clean^[-]up at any release or spill.

(18) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water or soil that is a result of human activity.

(19) "Displaced" or "displacement" means the relative movement of any two sides of a fault measured in any direction.

(20) "Drop box facility" means a facility used for the placement of a large detachable container or drop box for the collection of solid waste for transport to a solid waste disposal facility. The facility includes the area adjacent to the containers for necessary entrance, exit, unloading, and turn^[-]around areas. Drop box facilities normally serve the general public with uncompacted loads and receive waste from off^[-]site. Drop box facilities do not include residential or commercial waste containers on the site of waste generation.

(21) "Energy recovery" means the recovery of energy in a ~~useable~~usable form from incineration, burning, or any other means of using the heat of combustion of solid waste that involves high temperature, ~~[{]above 1,200 degrees Fahrenheit[}]~~, processing.

(22) "Existing facility" means any facility that has:

(a) a current valid solid waste permit or other valid approval issued under Rules R315-301 through R315-320 by the ~~[D]~~director; and

(b) received final approval to accept waste as required by Subsection R315-301-5(1).

(23) "Expansion of a solid waste disposal facility" means any lateral expansion beyond the property boundaries outlined in the permit application for the current permit under which the facility is operating.

(24) "Facility" means ~~[all]~~the contiguous land, structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of solid waste. A facility may consist of several treatment, storage, or disposal operational units, ~~[e.g.]for example~~, one or more incinerators, landfills, container storage areas, or combinations of these.

(25) "Floodplain" means the land that has been or may be ~~[hereafter]~~covered by flood water which has a 1% chance of occurring any given year. The flood is also referred to as the base flood or 100-year flood.

(26) "Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure or as determined by ~~[EPA test method 9095]~~Test Method 9095B, ~~[{]Paint Filter Liquids Test[}]~~, as provided in EPA Publication SW-846, [Report SW 846]"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" available at the US EPA Hazardous Waste Test Methods/SW-846 website~~[as revised December (1996) which is adopted and incorporated by reference]~~.

(27) "Garbage" means discarded animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food, and of ~~[such]~~a character and proportion as to be capable of attracting or providing food for vectors. Garbage does not include sewage and sewage sludge.

(28) "~~[Ground-water]~~Groundwater" means subsurface water that is in the zone of saturation including perched ~~[ground water]~~groundwater.

(29) "~~[Ground-water]~~Groundwater quality standard" means a standard for maximum allowable contamination in ~~[ground water]~~groundwater as set by Section R315-308-4.

(30) "Hazardous waste" means hazardous waste as defined by Subsection 19-6-102(9) and Section R315-261-3.

(31) "Holocene fault" means a fracture or zone of fractures along which rocks on one side of the fracture have been displaced with respect to those on the other side, which has occurred in the most recent epoch of the Quaternary period extending from the end of the Pleistocene, approximately 11,000 years ago, to the present.

(32) "Household size" means a container for a material or product that is normally and reasonably associated with households or household activities. The containers are of a size and design to hold materials or products generally for immediate use and not for storage, five gallons or less in size.

(33) "Household waste" means any solid waste, including garbage, trash, and sanitary waste in septic tanks, derived from households including single and multiple residences, hotels, motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day^[-]use recreation areas.

(34) "Incineration" means a controlled thermal process by which solid wastes are physically or chemically altered to gas, liquid, or solid residues that are also regulated solid wastes. Incineration includes the thermal destruction of solid waste for energy recovery. Incineration does not include smelting operations where metals are reprocessed or the refining, processing, or burning of used oil for energy recovery as described in Rule R315-15.

(35) "Industrial solid waste" means any solid waste generated at a manufacturing or other industrial facility that is not a hazardous waste or that is a hazardous waste from a very small quantity generator of hazardous waste, as defined by Section R315-260-10, generated by an industrial facility. Industrial solid waste includes waste from the following industries or resulting from the following manufacturing processes and associated activities:

- ~~_____~~ (a) electric power generation;
- ~~_____~~ (b) fertilizer or agricultural chemical industries;
- ~~_____~~ (c) food and related products or by-products industries;
- ~~_____~~ (d) inorganic chemical industries;
- ~~_____~~ (e) iron and steel manufacturing;
- ~~_____~~ (f) leather and leather product industries;
- ~~_____~~ (g) nonferrous metals manufacturing or foundry industries;
- ~~_____~~ (h) organic chemical industries;
- ~~_____~~ (i) plastics and resins manufacturing;
- ~~_____~~ (j) pulp and paper industry;
- ~~_____~~ (k) rubber and miscellaneous plastic product industries;
- ~~_____~~ (l) stone, glass, clay, and concrete product industries;
- ~~_____~~ (m) textile manufacturing;
- ~~_____~~ (n) transportation equipment manufacturing; and
- ~~_____~~ (o) water treatment industries.
- ~~_____~~ (p) This term does not include mining waste^[;], oil and gas waste^[;], or other waste excluded by Subsection 19-6-102~~[(18)(b)]~~(19).

(36) "Industrial solid waste facility" means a facility that receives only industrial solid waste from on-site or off-site sources for disposal.

(37) "Inert waste" means noncombustible, nonhazardous solid wastes that ~~[retain]~~keep their physical and chemical structure under expected conditions of disposal, including wastes that exhibit resistance to biological or chemical change.

(38) "Landfill" means a disposal facility where solid waste is or has been placed in or on the land and that is not a landtreatment facility or surface impoundment.

(39) "Land[-]treatment, landfarming, or landspreading facility" means a facility or unit within a facility where solid waste is applied onto or incorporated into the soil surface for ~~the purpose of~~ biodegradation.

(40) "Lateral expansion of the solid waste disposal area" means:

(a) any horizontal expansion of the waste boundaries of an existing landfill cell, module, or unit;

(b) the construction of a new cell, module, or unit within the boundaries outlined in the permit application of the current permit under which the facility is operating; or

(c) any horizontal expansion not consistent with past normal operating practices.

(41) "Lateral hydraulically equivalent point" means a point located hydraulically equal to a facility and in the ~~same~~ ~~ground water~~ ~~groundwater~~ with similar geochemistry such that the ~~ground water~~ ~~groundwater~~, at that point, has not been affected by the facility.

(42) "Leachate" means a liquid that has passed through or emerged from solid waste and that may contain soluble, suspended, miscible, or immiscible materials removed from ~~such~~ ~~the~~ waste.

(43) "Lithified earth material" means ~~an~~ ~~any~~ rock, including ~~an~~ ~~any~~ naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that formed by crystallization of magma or by induration of loose sediments. This term does not include human[-]made materials, such as fill, concrete and asphalt, or unconsolidated earth materials, soil, or regolith lying at or near the earth surface.

(44) "Lower explosive limit" means the lowest percentage by volume of a mixture of explosive gases that will propagate a flame in air at 25 degrees Celsius, ~~(~~77 degrees Fahrenheit~~)~~, and atmospheric pressure.

(45) "Maximum horizontal acceleration in lithified earth material" means the maximum expected horizontal acceleration depicted on a seismic hazard map, with a 90% or greater probability that the acceleration will not be exceeded in 250 years, or the maximum expected horizontal acceleration based on[-]site specific seismic risk assessment.

(46) "Municipal solid waste landfill" means a permitted nonhazardous solid waste landfill that may receive municipal solid waste for disposal.

(47) "Municipal solid waste" means household waste, nonhazardous commercial solid waste, and non[-]hazardous sludge.

(48) "New facility" means any facility that:

(a) has applied for a permit or other valid approval issued under Rules R315-301 through R315-320 by the ~~D~~director;

(b) did not have a permit or other valid approval issued under Rules R315-301 through R315-320 at the time of the application; and

(c) has not received final approval to accept waste as required by Subsection R315-301-5(1).

(49) "Off[-]site" means any site which is not on[-]site.

(50) "On[-]site" means the ~~same or~~ geographically contiguous property that may be divided by public or private right-of-way, ~~provided that~~ where 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. Property separated by a private right-of-way, which the site owner or operator controls, and to which the public does not have access, is also considered on-site property.

(51) "Operator" means the person, as defined by Subsection 19-1-103(4), responsible for the overall operation of a facility.

(52) "Owner" means the person, as defined by Subsection 19-1-103(4), who has an ownership interest in a facility or part of a facility.

(53) "PCB" or "PCBs" means any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of materials which contain ~~such~~ ~~these~~ substances.

(54) "Permeability" means the ease with which a porous material allows water and the solutes contained therein to flow through it. This is usually expressed in units of centimeters per second (cm/sec) and termed hydraulic conductivity. Soils and synthetic liners with a permeability for water of 1×10^{-7} cm/sec or less may be considered impermeable.

(55) "Permit" means the plan approval as required by Subsection 19-6-108(3)(a), or equivalent control document issued by the ~~D~~director to implement the requirements of the Utah Solid and Hazardous Waste Act.

(56) "Pile" means any noncontainerized accumulation of solid waste that is used for treatment or storage.

(57) "Poor foundation conditions" means those areas where features exist which indicate that a natural or human[-]induced event may result in inadequate foundation support for the structural components of a landfill unit.

(58) "Putrescible waste" means solid waste which contains organic matter capable of being decomposed by microorganisms and of such a character and proportion as to be capable of attracting or providing food for vectors including birds and mammals.

(59) "Qualified ~~ground water~~ groundwater 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~~ groundwater hydrology and related fields as may be demonstrated by state registration, professional certification, or completion of accredited university programs that enable that individual to make sound professional ~~judgements~~ judgments regarding ~~ground water~~ groundwater monitoring, contaminant fate and transport, and corrective action.

(60) "Recycling" means extracting valuable materials from the waste stream and transforming or remanufacturing them into usable materials that have a demonstrated or potential market.

(a) Recycling does not include processes that generate ~~such~~ a volume[s] of material so large that no market exists for the material.

(b) Any part of the waste stream entering a recycling facility and subsequently returning to a waste stream or being otherwise disposed has the ~~same~~ regulatory designation ~~as~~ of the original waste.

(c) Recycling includes the substitution of nonhazardous solid waste fuels for conventional fuels, ~~(~~such as coal, natural gas, and petroleum products~~)~~, ~~for the purpose of generating~~ to generate the heat necessary to manufacture a product.

(61) "Recyclable materials" means those solid wastes that can be recovered from or otherwise diverted from the waste stream for ~~the purpose of~~ recycling, such as metals, paper, glass, and plastics.

(62) "Run-off" means any rainwater, leachate, or other liquid that has contacted solid waste and drains over land from any part of a facility.

(63) "Run-on" means any rainwater, leachate, or other liquid that drains over land onto the active area of a facility.

(64) "Scavenging" means the unauthorized removal of solid waste from a facility.

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(65) "Seismic impact zone" means an area with a 10% or greater probability that the maximum horizontal acceleration in lithified earth material, expressed as a percentage of the earth's gravitational pull, will exceed 0.10g in 250 years.

(66) "Septage" means a semisolid consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from septic tank systems.

(67) "Sharps" means any discarded or contaminated article or instrument from a health facility that may cause puncture or cuts. ~~[Such]~~This waste may include needles, syringes, blades, needles with attached tubing, pipettes, pasteurs, broken glass, and blood vials.

(68) "Sludge" means any solid, semisolid, or liquid waste, including grit and screenings generated from~~[-a]~~:

(a) municipal, commercial, or industrial ~~[waste water]~~wastewater treatment plants;

(b) water supply treatment plants;

(c) car wash ~~[facility]~~facilities;

(d) air pollution control ~~[facility]~~facilities; or

(e) any other ~~[such]~~waste having similar characteristics.

(69) "Solid waste disposal facility" means a landfill, incinerator, or land~~[-]~~treatment area.

(70) "Solid waste incinerator facility" means a facility at which solid waste is received from on-site or off-site sources and is subjected to the incineration process. An incinerator facility that incinerates solid waste for any reason, including energy recovery, volume reduction, or to ~~[render]~~make it non~~[-]~~infectious, is a solid waste incinerator facility and is subject to Rules R315-301 through R315-320.

(71) "Special waste" means discarded solid waste that may require special handling or other solid waste that may pose a threat to public safety, human health, or the environment.

(a) Special waste may include:

(i) ash;

(ii) automobile bodies;

(iii) furniture and appliances;

(iv) infectious waste;

(v) waste tires;

(vi) dead animals;

(vii) asbestos;

(viii) waste exempt from the hazardous waste ~~[regulations]~~rules under Section R315-261-4;

(ix) ~~very~~ small quantity generator hazardous waste as defined by Section R315-260-10;

(x) waste containing PCBs;

(xi) petroleum contaminated soils;

(xii) waste asphalt; and

(xiii) sludge.

(b) Special waste ~~[must]~~shall be handled and disposed according to the requirements of Rule R315-315.

(72) ~~["State" means the State of Utah.]~~Reserved.

(73) "Structural components" means liners, leachate collection systems, final covers, run-on or run-off systems, and any other component used in the construction and operation of a landfill that is necessary for the protection of human health and the environment.

(74) "Surface impoundment or impoundment" means a facility or part of a facility which is a natural topographic depression, human~~[-]~~made excavation, or diked area formed primarily of earthen materials, although it may be lined with synthetic materials, which is designed to hold an accumulation of liquid waste or waste containing free liquids, and which is not an injection well. Examples of surface

impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

(75) "Transfer station" means a permanent, fixed, supplemental collection and transportation facility that is staffed by a minimum of one employee of the owner or operator during hours of operation and is used by persons and route collection vehicles to deposit collected solid waste from off-site into a transfer vehicle for transport to a solid waste handling or disposal facility.

(76) "Transport vehicle" means a vehicle capable of hauling solid waste such as a truck, packer, or trailer that may be used by refuse haulers to transport solid waste from the point of generation to a transfer station or a disposal facility.

(77) "Treated wood" means any wood item that has been treated with the following or compounds containing the following:

(a) creosote or related compounds;

(b) ~~[A]~~arsenic;

(c) ~~[C]~~chromium; or

(d) ~~[C]~~copper.

(78) "Twenty-five year storm" means a 24-hour storm of ~~[such]~~the intensity that it has a 4% probability of being equaled or exceeded any given year. The storm could result in what is referred to as a 25-year flood.

(79) "Unit" or "Solid Waste Management Unit" means a distinct operational storage, treatment, or disposal area at a solid waste management facility that contains ~~[all]~~the features to ~~[render]~~make it capable of performing its intended function and of being closed as a separate entity.

(80) "Unit boundary" means a vertical surface located at the hydraulically downgradient limit of a landfill unit or other solid waste disposal facility unit which is required to monitor ~~[ground water]~~groundwater. This vertical surface extends down into the ~~[ground water]~~groundwater.

(81) "Unstable area" means a location that is susceptible to natural or human induced events or forces capable of impairing the integrity of ~~[some or all of]~~the landfill structural components responsible for preventing releases from a facility. Unstable areas can include poor foundation conditions, areas susceptible to mass movements, and karst terrains.

(82) "Vadose zone" means the zone of aeration including soil and capillary water. The zone is bound above by the land surface and below by the water table.

(83) "Vector" means a living animal including insect or other arthropod which is capable of transmitting an infectious disease from one organism to another.

(84) "Washout" means the carrying away of solid waste by waters of a base or 100-year flood.

(85) "Waste tire storage facility" or "waste tire pile" means any site where more than 1,000 waste tires or 1,000 passenger tire equivalents are stored on the ground.

(a) A waste tire storage facility includes:

(i) whole waste tires used as a fence;

(ii) whole waste tires used as a windbreak; and

(iii) waste tire generators where more than 1,000 waste tires are held.

(b) A waste tire storage facility does not include:

(i) a site where waste tires are stored exclusively in buildings or in trailers;

(ii) if whole waste tires are stored for five or fewer days, the site of a registered tire recycler or a processor for a registered tire recycler;

(iii) a permitted solid waste disposal facility that stores whole tires in piles for not longer than one year;

(iv) a staging area where tires are temporarily placed on the ground, not stored, to accommodate activities such as sorting, assembling, or loading or unloading of trucks; or

(v) a site where waste tires or material derived from waste tires are stored for five or fewer days and are used for ballast to maintain covers on agricultural materials or to maintain covers at a construction site or are to be recycled or applied to a beneficial use.

(c) Tires attached to a vehicle are not considered waste tires until they are removed from the vehicle.

(86) "Wetlands" means those areas that are inundated or saturated by surface or ~~ground water~~ groundwater at a frequency and duration sufficient to support, and under normal conditions do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(87) "Yard waste" means vegetative matter resulting from landscaping, land maintenance, and land clearing operations including grass clippings, prunings, and other discarded material generated from yards, gardens, parks, and similar types of facilities. Yard waste does not include garbage, paper, plastic, processed wood, sludge, septage, or manure.

R315-301-4. Prohibition of Illegal Disposal or Incineration of Solid Waste.

(1) No person shall incinerate, burn, or otherwise dispose of any solid waste in any place except at a facility which is in compliance with the requirements of Rules R315-301 through R315-320 and other applicable rules.

(2) ~~When~~ If any solid waste is disposed in a manner not in compliance with the requirements of Rules R315-301 through R315-320, or other applicable rules, the property owner of the disposal site or the person responsible for the illegal disposal or both:

(a) shall remove the solid waste from the illegal disposal site to a permitted solid waste disposal facility and, if necessary, shall remediate the site; or

(b) shall apply for a permit ~~form~~ from the ~~D~~ director and shall meet ~~all~~ each of the following~~s~~:

(i) submit the required permit application in the time frame specified by the ~~D~~ director and respond promptly to ~~all~~ any requests for information from the ~~D~~ director related to the permit application;

(ii) shall immediately meet ~~all of~~ the operational monitoring and waste handling criteria of Rules R315-301 through R315-320; and

(iii) shall follow the requirements of ~~Rule~~ Subsection R315-301-4(2)(a) if a permit is not granted.

(3) Any person disposing of solid waste in a manner not in compliance with the requirements of Rules R315-301 through R315-320, or other applicable rules, may be subject to enforcement action in addition to meeting the requirements of ~~Rule~~ Subsection R315-301-4(2).

(4) ~~When~~ If deposition or disposal of the following materials does not cause a hazard to human health or the environment or cause a public nuisance, the requirements of Rules R315-301 through R315-320 do not apply to:

(a) inert waste used as fill material;

(b) the disposal of mine tailings and overburden at the site of generation;

(c) the disposal of vegetative material generated as a result of land clearing;~~or~~

(d) the disposal of vegetative agricultural waste~~;~~

(e) the following waste if managed at a facility that is solely for recycling, reuse, or reprocessing:

(i) fly ash waste;

(ii) bottom ash waste;

(iii) slag waste;

(iv) flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels; or

(f) the following wastes if disposal occurs at an on-site location owned and operated by the generator:

(i) waste from the extraction, beneficiation, and processing of ores and minerals listed in Subsection R315-261-4(b)(7)(i); or

(ii) cement kiln dust.

KEY: self-inspections, solid waste management, solid waste disposal

Date of Last Change: 2024~~November 9, 2018~~

Notice of Continuation: November 30, 2022

Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-108; 19-6-109; 40 CFR 258

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R315-302	Filing ID: 56181

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Waste Management	
Room number:	2nd Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	385-454-5574	tball@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R315-302. Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements

3. Purpose of the new rule or reason for the change:
 The Division of Waste Management and Radiation Control, Waste Management (Division) is amending this rule to clarify rule references, providing clarifying language, and amending rule language in accordance with legislation.
 The Division is also correcting typographical and rule formatting errors.

4. Summary of the new rule or change:
 Language is being added to Section R315-302-1 as required by H.B. 357 that was passed during the 2013 General Session of the Utah Legislature. This language requires new facilities to conduct and pay for a traffic impact study.
 A citation to Subsections R315-302-2(4)(c) and (d) is being added to Subsection R315-302-2(4)(iii) to clarify that these requirements must also be addressed when submitting an annual report.
 Language is being added to Subsection R315-302-2(4) as required by H.B. 115 that was passed during the 2017 General Session of the Utah Legislature. This language requires facilities that treat, transfer, incinerate, or dispose of solid waste to submit quarterly reports and to pay fees.

Fiscal Information

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

A) State budget:
 It is not anticipated that there will be any cost or savings to the state budget based on this amendment. It is not anticipated that the state will be seeking a permit for a facility that would require a traffic impact study or road improvements resulting from a study.
 The cost of reviewing any traffic impact studies and quarterly reports is covered by the current agency budget.

B) Local governments:
 There are no cost or savings for existing local government facilities due to this rule amendment.
 The cost to local governments that may develop new solid waste disposal facilities in the future will be determined by the number of access roads to the facility, the services enlisted to evaluate traffic impacts, and the cost of any road improvements. Due to the number of variables involved it is not possible to estimate these costs.
 The agency does not have any current applications from local governments that would be affected by this amendment and does not know when or if any applications for new facilities will be submitted.

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

There are no costs or savings for existing small businesses due to this amendment.
 The cost to small businesses that may develop new solid waste disposal facilities in the future will be determined by the number of access roads to the facility, the services enlisted to evaluate traffic impacts, and the cost of any road improvements. Due to the number of variables involved it is not possible to estimate these costs.
 The agency is currently reviewing an application from a small business. However, it is unknown whether the business will continue to seek a permit because there are outstanding requests for additional information from the small business with no response in more than two years. Therefore, the agency is unable to estimate the costs of the traffic impact study on this business.
 The agency does not have any other applications from small businesses that would be affected by this amendment and does not know when or if any applications for new facilities will be submitted.

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

There are no costs or savings for existing non-small business facilities due to this rule amendment.
 The cost to non-small businesses that may decide to develop new solid waste disposal facilities in the future will be determined by the number of access roads to the facility, the services enlisted to evaluate traffic impacts, and the cost of any road improvements. Due to the number of variables involved it is not possible to estimate these costs.
 The agency does not have any current applications from non-small businesses that would be affected by this amendment and does not know when or if any applications for new facilities will be submitted.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There are no costs or savings for existing facilities operated by persons other than small businesses, non-small businesses, state, or local government entities due to this rule amendment.
 The cost to persons other than small businesses, non-small businesses, state, or local government entities that may decide to develop new solid waste disposal facilities in the future will be determined by the number of access roads to the facility, the services enlisted to evaluate traffic impacts, and the cost of any road improvements. Due to

the number of variables involved it is not possible to estimate these costs.

The agency does not have any current applications from persons other than small businesses, non-small businesses, state, or local government entities that would be affected by this amendment and does not know when or if any applications for new facilities will be submitted.

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 changes in costs for existing facilities.

For a new facility, costs will be determined by the number of access roads to the facility, the services enlisted to evaluate traffic impacts, and the cost of any road improvements. These costs will vary on a case-by-case basis.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Environmental Quality, Kim Shelley, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 19-6-104	Section 19-6-105	Section 19-6-108
Section 19-6-109		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 01/03/2024

9. This rule change MAY become effective on: 01/15/2024

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	Date:	11/09/2023
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R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.

R315-302. Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements.

R315-302-1. Location Standards for Disposal Facilities.

- (1) Applicability.
 - (a) These standards apply to each new solid waste disposal facility and any existing solid waste disposal facility seeking facility expansion, including:
 - (i) Class I, II, and V Landfills;
 - (ii) Class III Landfills as specified in Rule R315-304;
 - (iii) Class IV and VI Landfills as specified in Rule R315-305;
 - (iv) piles that are to be closed as landfills; and
 - (v) [H]incinerators as specified in Rule R315-306.
 - (b) These standards, except for Subsection R315-302-1(2)(f) or unless otherwise noted, do not apply to:
 - (i) an existing facility;
 - (ii) a transfer station or a drop box facility;
 - (iii) a pile used for storage;
 - (iv) composting or utilization of sludge or other solid waste on land; or

NOTICES OF PROPOSED RULES

(v) hazardous waste disposal sites regulated by Rules R315-260 through R315-266, R315-268, R315-270, R315-273 and Rule R315-101.

(2) Location Standards. Each applicable solid waste facility shall be subject to the following location standards.

(a) Land Use Compatibility. No new facility shall be located within:

(i) one thousand feet of a:

(A) national, state, county, or city park, monument, or recreation area;

(B) designated wilderness or wilderness study area;

(C) wild and scenic river area; or

(D) stream, lake, or reservoir;

(ii) ecologically and scientifically significant natural areas, including wildlife management areas and habitat for threatened or endangered species as designated pursuant to the Endangered Species Act of 1982;

(iii) one-fourth mile of:

(A) existing permanent dwellings, residential areas, and other incompatible structures such as schools or churches unless otherwise allowed by local zoning or ordinance; and

(B) historic structures or properties listed or eligible to be listed in the State or National Register of Historic Places;

(iv) ten thousand feet of any airport runway end used by turbojet aircraft or within 5,000 feet of any airport runway end used by only piston-type aircraft unless the owner or operator demonstrates that the facility design and operation will not increase the likelihood of bird~~[/]~~ or aircraft collisions. ~~[Every]~~Each new and existing disposal facility is subject to this requirement.

(A) If a new landfill or a lateral expansion of an existing landfill is located within six miles of an airport runway end, the owner or operator ~~[must]~~shall notify the affected airport and the Federal Aviation Administration; or

(v) areas with respect to archeological sites that would violate Section 9-8-404.

(b) Geology.

(i) No new facility or lateral expansion of an existing facility shall be located in a subsidence area, a dam failure flood area, above an underground mine, above a salt dome, above a salt bed, or on or adjacent to geologic features ~~[which]~~that could compromise the structural integrity of the facility.

(ii) Holocene Fault Areas. A new facility or a lateral expansion~~[s]~~ of an existing facility ~~[shall]~~may not be located within 200 feet of a Holocene fault unless the owner or operator demonstrates to the ~~[D]~~director that an alternative setback distance of less than 200 feet will prevent damage to the structural integrity of the unit and will be protective of human health and the environment.

(iii) Seismic Impact Zones. A new facility or a lateral expansion of an existing facility ~~[shall]~~may not be located in seismic impact zones unless the owner or operator demonstrates to the satisfaction of the ~~[D]~~director that ~~[all]~~any containment structures, including liners, leachate collection systems, and surface water control systems, are designed to resist the maximum horizontal acceleration in lithified earth material for the site.

(iv) Unstable Areas. The owner or operator of an existing facility, a lateral expansion of an existing facility, or a new facility located in an unstable area ~~[must]~~shall demonstrate to the satisfaction of the ~~[D]~~director that engineering measures have been incorporated into the facility design to ensure that the integrity of the structural components of the facility will not be disrupted. The owner or operator ~~[must]~~shall consider the following factors when determining whether an area is unstable:

(A) on-site or local soil conditions that may result in significant differential settling;

(B) on-site or local geologic or geomorphologic features; and

(C) on-site or local human-made features or events, both surface and subsurface.

(c) Surface Water.

(i) No new facility or lateral expansion of an existing facility shall be located on any public land that is being used by a public water system for water shed control for municipal drinking water purposes.

(ii) Floodplains. No new or existing facility shall be located in a floodplain unless the owner or operator demonstrates to the ~~[D]~~director that the unit will not restrict the flow of the 100-year flood, reduce the temporary water storage capacity of the floodplain, or result in a washout of solid waste so as to pose a hazard to human health or the environment.

(d) Wetlands. No new facility or lateral expansion of an existing facility shall be located in wetlands unless the owner or operator demonstrates to the ~~[D]~~director that:

(i) where applicable under section 404 of the Clean Water Act or applicable ~~[S]~~state wetlands laws, the presumption that a practicable alternative to the proposed landfill is available ~~[which]~~that does not involve wetlands is clearly rebutted;

(ii) the unit will not violate any applicable state water quality standard or section 307 of the Clean Water Act;

(iii) the unit will not jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of a critical habitat protected under the Endangered Species Act of 1973;

(iv) the unit will not cause or contribute to significant degradation of wetlands. The owner or operator ~~[must]~~shall demonstrate the integrity of the unit and its ability to protect ecological resources by addressing the following factors:

(A) erosion, stability, and migration potential of native wetland soils, muds, and deposits used to support the unit;

(B) erosion, stability, and migration potential of dredged and fill materials used to support the unit;

(C) the volume and chemical nature of the waste managed in the unit;

(D) impacts on fish, wildlife, and other aquatic resources and their habitat from release of the solid waste;

(E) the potential effects of catastrophic release of waste to the wetland and the resulting impacts on the environment; and

(F) any additional factors, as necessary, to demonstrate that ecological resources in the wetland are sufficiently protected;

(v) to the extent required under section 404 of the Clean Water Act or applicable state wetlands laws, steps have been taken to ~~[attempt]~~try to achieve no net loss of wetlands, as defined by acreage and function, by first avoiding impacts to wetlands to the maximum extent practicable as required by Subsection R315-302-1(2)(d)(i), then minimizing unavoidable impacts to the maximum extent practicable, and finally offsetting remaining unavoidable wetland impacts through ~~[all]~~any appropriate and practicable compensatory mitigation actions, ~~[(e.g.) for example, restoration of existing degraded wetlands or creation of man-made wetlands{ }]~~; and

(vi) sufficient information is available to make a reasonable determination with respect to these demonstrations.

(e) ~~[Ground Water]~~Groundwater.

(i) No new facility or lateral expansion of an existing facility shall be located at a site:

(A) where the bottom of the lowest liner is less than five feet above the historical high level of ~~[ground-water]~~groundwater; or

(B) for a landfill that is not required to install a liner, the lowest level of waste ~~must~~shall be at least ten feet above the historical high level of ~~[ground-water]~~groundwater.

(C) If the aquifer beneath a landfill contains ~~[ground-water]~~groundwater ~~[which]that~~ has a Total Dissolved Solids (TDS) of 10,000 mg/l or greater and the landfill is constructed with a composite liner, the bottom of the lowest liner may be less than five feet above the historical high level of the ~~[ground-water]~~groundwater.

(ii) No new facility shall be located over a sole source aquifer as designated in 40 CFR 149.

(iii) No new facility shall be located over groundwater classed as IB under Section R317-6-3.3.

(iv) Unless ~~[a]each~~unit[s] of the proposed facility ~~[are]is~~ constructed with a composite liner or other equivalent design approved by the ~~[D]~~director:

(A) a new facility located above any aquifer containing ~~[ground-water]~~groundwater ~~[which]that~~ has a TDS content below 1,000 mg/l ~~[which]that~~ does not exceed applicable ~~[ground-water]~~groundwater quality standards for any contaminant is permitted only where the depth to ~~[ground-water]~~groundwater is greater than 100 feet; or

(B) a new facility located above any aquifer containing ~~[ground-water]~~groundwater ~~[which]that~~ has a TDS content between 1,000 and 3,000 mg/l and does not exceed applicable ~~[ground-water]~~groundwater quality standards for any contaminant is permitted only where the depth to ~~[ground-water]~~groundwater is 50 feet or greater.

(C) The applicant for the proposed facility will make the demonstration of ~~[ground-water]~~groundwater quality necessary to determine the appropriate aquifer classification.

(v) No new facility shall be located in designated drinking water source protection areas or, if no source protection area is designated, within a distance to existing drinking water wells or springs for public water supplies of 250 days ~~[ground-water]~~groundwater travel time. This requirement does not include on-site operation wells. The applicant for the proposed facility will make the demonstration, acceptable to the ~~[D]~~director, of hydraulic conductivity and other information necessary to determine the 250 days ~~[ground-water]~~groundwater travel distance.

(vi) ~~[Ground-Water]~~Groundwater Alternative.

(A) Subject to the ~~[ground-water]~~groundwater performance standard stated in Subsection R315-303-2(1), if a solid waste disposal facility is to be located over an area where the ~~[ground-water]~~groundwater has a TDS of 10,000 mg/l or greater, or where there is an extreme depth to ~~[ground-water]~~groundwater, or where there is a natural impermeable barrier above the ~~[ground-water]~~groundwater, or where there is no ~~[ground-water]~~groundwater, the ~~[D]~~director may approve, on a site specific basis, an alternative ~~[ground-water]~~groundwater monitoring system at the facility or may waive the ~~[ground-water]~~groundwater monitoring requirement. If ~~[ground-water]~~groundwater monitoring is waived the owner or operator shall make the demonstration stated in Subsection R315-308-1(3).

(B) A facility that has a ~~[ground-water]~~groundwater monitoring alternative approved under Subsection R315-302-1(2)(e)(vi) is subject to the ~~[ground-water]~~groundwater quality standards specified in Subsection R315-303-2(1) and the approved alternative shall be revoked by the ~~[D]~~director if the operation of the facility impacts ~~[ground-water]~~groundwater.

(f) Historic preservation survey requirement.

(i) Each new facility or expansion of an existing facility shall:

(A) have a notice of concurrence issued by the state historic preservation officer as provided for in Subsection 9-8-404(3)(a)(i); or

(B) show that the state historic preservation officer did not respond within 30 days to the submittal, to the officer, of an evaluation; or

(C) have received a joint analysis conducted as required by Subsection 9-8-404(2).

(ii) Each existing facility shall, for ~~[a]any~~ areas of the site that have not been disturbed:

(A) have a notice of concurrence issued by the state historic preservation officer as provided for in Subsection 9-8-404(3)(a)(i); or

(B) show that the state historic preservation officer did not respond within 30 days to the submittal, to the officer, of an evaluation; or

(C) have received a joint analysis conducted as required by Subsection 9-8-404(2).

(g) Traffic impact study requirement.

(i) For each new facility, the applicant shall pay the costs for review of a traffic impact study, any costs required by the road authority for improvements, and submit a traffic impact study that:

(A) demonstrates that requirements for safety, operation, and the condition of roadways serving the proposed facility meet locally forecasted needs;

(B) has been reviewed and approved by the Department of Transportation, a local highway authority, or a county or municipality road authority, whichever has jurisdiction over each road serving the proposed facility; and

(C) includes any maintenance agreement with a road authority in writing.

(3) Exemptions. Exemptions from the location standards with respect to airports, floodplains, wetlands, fault areas, seismic impact zones, and unstable areas cannot be granted. Exemptions from other location standards of Section R315-302-1 may be granted by the ~~[D]~~director on a site specific basis if it is determined that the exemption will cause no adverse impacts to human health or the environment.

(a) No exemption may be granted without application to the ~~[D]~~director.

(b) If an exemption is granted, a facility may be required to have a more stringent design, construction, monitoring program, or operational practice to protect human health or the environment.

(c) ~~[A]Each~~application[s] for ~~an~~exemption[s] shall meet the conditions of Section R315-311-3 pertaining to public notice and comment period.

R315-302-2. General Facility Requirements.

(1) Applicability.

(a) Each new and existing solid waste facility ~~that is~~~~[for which a permit is]~~ required by Section R315-310-1 ~~to get a permit,~~ shall meet the applicable requirements of Section R315-302-2 or portions of Section R315-302-2 as required by Rule[s] R315-304, R315-305, R315-306, R315-307, R315-312, R315-313, or R315-314.

(b) Any facility ~~[which]that~~ stores waste in piles that is subject to the requirements of Rule R315-314 shall meet the applicable requirements of Section R315-302-2.

(c) Any recycling facility or composting facility subject to the standards of Rule R315-312 shall submit a plan of operation, to

NOTICES OF PROPOSED RULES

the [D]director, that demonstrates compliance with the applicable standards of Section R315-302-2 and Rule R315-312.

(i) The submitted plan of operation shall be reviewed to determine compliance with the applicable standards of Section R315-302-2 and Rule R315-312.

(ii) [Prior to]Before the acceptance of waste or recyclable material or beginning operations at the facility, the owner or operator of a recycling or composting facility [must]shall receive notice from the [D]director that the plan of operation meets the applicable standards of Section R315-302-2 and Rule R315-312.

(d) Any transfer station subject to the standards of Rule R315-313 shall submit a plan of operation to the [D]director that demonstrates compliance with the applicable standards of Section R315-302-2 and Rule R315-313.

(i) The submitted plan of operation shall be reviewed to determine compliance with the applicable standards of Section R315-302-2 and Rule R315-313.

(ii) [Prior to]Before the acceptance of waste or beginning operations at the facility, the owner or operator of a transfer station facility [must]shall receive notice from the [D]director that the plan of operation meets the applicable standards of Section R315-302-2 and Rule R315-313.

(e) The requirements of Section R315-302-2 apply to industrial solid waste facilities as specified in Rule R315-304.

(f) A solid waste incinerator facility that meets the quantity limitation of Subsection R315-306-3(1)(b) shall meet the reporting requirements of Subsection R315-302-2(4).

(2) Plan of Operation. Each owner or operator shall develop, keep on file, and abide by a plan of operation approved by the [D]director. The plan shall describe the facility's operation and shall convey to site operating personnel the concept of operation intended by the designer. The plan of operation shall be available for inspection at the request of the [D]director or [his]the director's authorized representative. The facility [must]shall be operated in accordance with the plan. Each plan of operation shall include:

(a) an intended schedule of construction. Facility permits will be reviewed by the [D]director no later than 18 months after the permit is issued and periodically thereafter, to determine if the schedule of construction is reasonably being followed. Failure to comply with the schedule of construction may result in revocation of the permit;

(b) a description of on-site solid waste handling procedures during the active life of the facility;

(c) a schedule for conducting inspections and monitoring for the facility;

(d) contingency plans in the event of a fire or explosion;

(e) corrective action programs to be initiated if [ground water]groundwater is contaminated;

(f) contingency plans for other releases, [e.g.]for example, release of explosive gases or failure of run-off containment system;

(g) a plan to control fugitive dust generated from roads, construction, general operations, and covering the waste;

(h) a plan to control wind-blown litter that includes equipment and methods to contain litter, including a schedule and methods to collect scattered litter in a timely manner;

(i) a description of maintenance of installed equipment including leachate and gas collection systems, and [ground water]groundwater monitoring systems;

(j) procedures for excluding the receipt of prohibited hazardous waste or prohibited waste containing PCBs;

(k) procedures for controlling disease vectors;

(l) a plan for an alternative waste handling or disposal system during periods when the solid waste facility is not able to dispose of solid waste, including procedures to be followed in case of equipment breakdown;

(m) closure and post-closure care plans;

(n) cost estimates and financial assurance as required by Subsection R315-309-2(3);

(o) a landfill operations training plan for site operators; and

(p) other information pertaining to the plan of operation as required by the [D]director.

(3) Recordkeeping. Each owner or operator shall maintain and keep, on-site or at a location approved by the [D]director, the following permanent records:

(a) a daily operating record, to be completed at the end of each day of operation, that shall contain:

(i) the weights, in tons, or volumes, in cubic yards, of solid waste received each day, number of vehicles entering, and if available, the type of wastes received each day;

(ii) deviations from the approved plan of operation;

(iii) training and notification procedures;

(iv) results of [ground water]groundwater and gas monitoring that may be required; and

(v) an inspection log or summary; and

(b) other records to include:

(i) documentation of any demonstration made with respect to any location standard or exemption;

(ii) any design documentation for the placement or recirculation of leachate or gas condensate into the landfill as allowed by Subsection R315-303-3(2)(b);

(iii) closure and post-closure care plans as required by Subsections R315-302-3(4) and R315-302-3(7);

(iv) cost estimates and financial assurance documentation as required by Subsection R315-309-2(3);

(v) any information demonstrating compliance with Class II Landfill requirements if applicable; and

(vi) other information pertaining to operation, maintenance, monitoring, or inspections as may be required by the [D]director.

(4) Reporting.

(a) Each owner or operator of any facility, including a facility performing post-closure care, shall prepare an annual report and place the report in the facility's operating record. The owner or operator of the facility shall submit a copy of the annual report to the [D]director by March 1 of each year for the most recent calendar year or fiscal year of facility operation.

(b) The annual report shall cover facility activities during the previous year and [must]shall include, at a minimum, the following information:

(i) name and address of the facility;

(ii) calendar year covered by the report;

(iii) annual quantity, in tons, of solid waste received, according to Subsections R315-302-2(4)(c) and R315-302-2(4)(d);

(iv) the annual update of the required financial assurances mechanism pursuant to Subsection R315-309-2(2);

(v) results of [ground water]groundwater monitoring and gas monitoring; and

(vi) training programs or procedures completed.

(c) Since the amount of waste received must be reported in tons, the following conversion factors shall be used for waste received that is not weighted on scales.

(i) Municipal solid waste:

- (A) Uncompacted - 0.15 tons per cubic yard; and
- (B) Compacted, ~~[(delivered in a compaction vehicle)]~~, - 0.30 tons per cubic yard.
- (ii) Construction~~[A]~~ or demolition waste - 0.50 tons per cubic yard.
- (iii) Municipal incinerator ash - 0.75 tons per cubic yard.
- (iv) Other ash - 1.10 tons per cubic yard.
- (v) Waste delivered by a resident in a pickup truck or a single axle trailer - 0.25 tons per vehicle.
- (vi) Industrial waste - a reasonable conversion factor, based on site specific data, developed by the owner or operator of the facility.

(d) If an owner or operator of a municipal landfill or a construction~~[A]~~ or demolition landfill has documented conversion factors that are based on facility specific data, these conversion factors may be used to report the amounts of waste when approved by the ~~[D]~~director.

(e) Each owner or operator of a facility that treats, transfers, incinerates, or disposes of solid waste, shall submit a quarterly report by the 15th day of the month following the end of each quarter, ending March 31st, June 30th, September 30th, and December 31st.

(i) The quarterly report shall include:

(A) the name and address of the facility; and

(B) the quarterly quantity, in tons, of solid waste received, according to Subsections R315-302-2(4)(c) and R315-302-2(4)(d).

(ii) Each owner or operator shall pay fees established in Subsection 19-6-119(6) upon submittal of the quarterly report, except for:

(A) a person who treats, transfers, stores, or disposes of solid waste from the extraction, beneficiation, and processing of ores and minerals on the site where the waste was generated.

(5) Inspections.

(a) The owner or operator shall inspect the facility to prevent malfunctions and deterioration, operator errors, and discharges ~~[which]that~~ may cause or lead to the release of wastes to the environment or to a threat to human health. The owner or operator ~~[must]shall~~ conduct these inspections with sufficient frequency, no less than quarterly, to identify problems in time to correct them before they harm human health or the environment. The owner or operator shall keep an inspection log or summary including at least the date and time of inspection, the printed name and handwritten signature of the inspector, a notation of observations made, and the date and nature of any repairs or corrective action. The log or summary ~~[must]shall~~ be kept at the facility or other convenient location if permanent office facilities are not on-site, for at least three years from the date of inspection. Inspection records shall be available to the ~~[D]~~director or ~~[his]the director's~~ authorized representative upon request.

(b) The ~~[D]~~director or any ~~[duly-]authorized~~ officer, employee, or representative of the ~~[D]~~director may, at any reasonable time and upon presentation of appropriate credentials, enter any solid waste facility and inspect the property, records, monitoring systems, activities and practices, or solid waste being handled for ~~[the purpose of]ascertaining~~ compliance with Rules R315-301 through R315-320 and the approved plan of operation for the facility.

(i) The inspector may conduct monitoring or testing, or collect samples for testing, to verify the accuracy of information submitted by the owner or operator or to ensure that the owner or operator is in compliance. The owner or operator may request split samples and analysis parameters on any samples collected by the inspector.

(ii) The inspector may use photographic equipment, video camera, electronic recording device, or any other reasonable means to record information during any inspection.

(iii) The results of any inspection shall be furnished promptly to the owner or operator of the facility.

(6) Recording with the County Recorder.

~~[Not later than]Before~~ 60 days after certification of closure, the owner or operator of a solid waste disposal facility shall:

(a) submit plats and a statement of fact concerning the location of any disposal site to the county recorder to be recorded as part of the record of title; and

(b) submit proof of record of title filing to the ~~[D]~~director.

KEY: solid waste management, waste disposal, solid waste permit

Date of Last Change: 2024[August 1, 2017]

Notice of Continuation: November 30, 2022

Authorizing, and Implemented or Interpreted Law: 19-6-104; 19-6-105; 19-6-108; 19-6-109; 40 CFR 258

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R315-304	Filing ID: 56182

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Waste Management	
Room number:	2nd Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	385-454-5574	tball@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:
R315-304. Industrial Solid Waste Landfill Requirements
3. Purpose of the new rule or reason for the change:
The Division of Waste Management and Radiation Control, Waste Management (Division) is amending this rule to clarify which wastes are exempt from the

requirements of Rule R315-304 and update a definition with the proper rule citations.

The Division is also correcting typographical and rule formatting errors.

4. Summary of the new rule or change:

Subsection R315-304-3(2) is being amended so that it more clearly defines what waste may be accepted at a Class IIIb landfill. Part of this clarification includes updating the rule citations to Section R315-261-4.

Fiscal Information

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

A) State budget:

Because these amendments do not add or remove any requirements from the rules, it is not anticipated that these rule amendments will result in any cost or savings to the budgets of any state agencies.

B) Local governments:

Because these amendments do not add or remove any requirements from the rules, it is not anticipated that these rule amendments will result in any cost or savings to any local governments.

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

Because these amendments do not add or remove any requirements from the rules, it is not anticipated that there will be any cost or savings to any small businesses that must comply with these rules due to the amendments.

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

Because these amendments do not add or remove any requirements from the rules, it is not anticipated that there will be any cost or savings to any non-small businesses that must comply with these rules due to the amendments.

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**):

Because these amendments do not add or remove any requirements from the rules, it is not anticipated that there will be any cost or savings to any persons other than small businesses, non-small businesses, state or local government entities that must comply with these rules due to the amendments.

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

There are no compliance costs for affected persons. The changes add clarification to requirements that already exist for any persons who must comply with these rules.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0

Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0

Net Fiscal Benefits	FY2024	FY2025	FY2026
	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Environmental Quality, Kim Shelley, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 19-6-105	Section 19-6-108	
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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.)

A) Comments will be accepted until: 01/03/2024

9. This rule change MAY become effective on: 01/15/2024

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	Date:	11/09/2023
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R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.

R315-304. Industrial Solid Waste Landfill Requirements.

R315-304-3. Definitions.

Terms used in Rule R315-304 are defined in Section R315-301-2. In addition~~[, for the purpose of Rule R315-304,]~~ the following definitions apply to Rule R315-304.

(1) "Class IIIa Landfill" means a landfill as defined by Subsection R315-301-2(9) that may accept:

- (a) any nonhazardous industrial waste;
- (b) waste that is exempt from hazardous waste ~~[regulations]~~rules under Section R315-261-4; or
- (c) very small quantity generator hazardous waste as defined by Section R315-260-10.

(2) "Class IIIb Landfill" means a landfill as defined by Subsection R315-301-2(9) that~~[may accept any nonhazardous industrial solid waste except]:~~

~~(a) may only accept the following, unless otherwise approved by the director:~~

~~[(a)](i) solid waste that is exempt from hazardous waste [regulations]rules under [Section R315-2-4, excluding]Subsections R315-261-4(b)[(3)],(4), R315-261-4(b)(5), and R315-261-4(b)(7)[, and (14), unless approved by the Director]; or~~

~~(ii) nonhazardous industrial solid waste not listed in Subsection R315-261-4(b); and~~

~~(b) may not accept very small quantity generator hazardous waste as defined by Section R315-260-10.~~

R315-304-4. Industrial Landfill Location Standards.

(1) Class IIIa Landfills.
 (a) A new Class IIIa Landfill shall meet the location standards of Subsection R315-302-1(2).

(b) A new Class IIIa Landfill that is proposed on the site of generation of the industrial solid waste or a lateral expansion of an existing Class IIIa Landfill, shall meet the location standards of Subsections R315-302-1(2)(b), R315-302-1(2)(c), R315-302-

1(2)(d), and R315-302-1(2)(e) with respect to geology, surface water, wetlands, and ~~[ground water]~~groundwater.

(c) An existing Class IIIa Landfill ~~[shall]~~may not be subject to the location standards of Subsection R315-302-1(2).

(d) An exemption from any location standard of Subsection R315-302-1(2), except the standards for floodplains and wetlands, may be granted by the ~~[D]~~director on a site specific basis if it is determined that the exemption will cause no adverse impacts to human health or the environment.

(i) No exemption may be granted without application to the ~~[D]~~director.

(ii) If an exemption is granted, the landfill may be required to have more stringent design, construction, monitoring program, or operational practice to protect human health or the environment.

(2) Class IIIb Landfills.

(a) A new Class IIIb ~~[H]~~Landfill or a lateral expansion of an existing Class IIIb Landfill shall be subject to the following location standards:

(i) the standards with respect to floodplains as specified in Subsection R315-302-1(2)(c)(ii);

(ii) the standards with respect to wetlands as specified in Subsection R315-302-1(2)(d);

(iii) the standards with respect to ~~[ground water]~~groundwater as specified in Subsection R315-302-1(2)(e)(i)(B); and

(iv) the requirements of Subsection R315-302-1(2)(f).

(b) For a lateral expansion of an existing Class IIIb Landfill, an exemption from any location standard of Subsection R315-304-4(2)(a) may be granted by the ~~[D]~~director on a site specific basis if it is determined that the exemption will cause no adverse impacts to human health or the environment.

(i) No exemption may be granted without application to the ~~[D]~~director.

(ii) If an exemption is granted, the landfill may be required to have more stringent design, construction, monitoring, or operation than the minimum described in Rule R315-304 to protect human health or the environment.

(c) An existing Class IIIb Landfill ~~[shall]~~may not be subject to the location standards of Subsection R315-304-4(2)(a).

KEY: solid waste management, solid waste disposal

Date of Last Change: 2024[August 31, 2017]

Notice of Continuation: November 30, 2022

Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-108; 40 CFR 257

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R315-306	Filing ID: 56183

Agency Information

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

Street address:	195 N 1950 W.	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	385-454-5574	tball@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R315-306. Incinerator Standards
3. Purpose of the new rule or reason for the change:
The Division of Waste Management and Radiation Control, Waste Management (Division) is amending this rule language in accordance with legislation. The Division is also correcting typographical and rule formatting errors.
4. Summary of the new rule or change:
Language is being added to Subsections R315-306-2(2)(a) and R315-306-3(2)(a) as required by H.B. 196 that was passed during the 2014 General Session of the Utah Legislature. This language prohibits a new incinerator facility from incinerating infectious waste and chemotherapeutic agent waste within a two-mile radius of an area zoned residential.

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 due to this rule amendment because the state does not own or operate an incinerator.
B) Local governments:
There is no cost or savings to local government entities that own or operate incinerators because the amendment only affects new incinerator facilities. Additionally, there is no cost or savings to any local government entities who choose to own and operate a new incinerator facility because the amended rule only

prohibits the incineration of certain wastes in certain areas. Those entities that would like to own and operate a new incineration facility would need to plan accordingly.

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

There is no cost or savings to small businesses that own or operate incinerators because the amendment only affects new incinerator facilities.

Additionally, there is no cost or savings to any small businesses that choose to own and operate a new incinerator facility because the amended rule only prohibits the incineration of certain wastes in certain areas. Those small businesses that would like to own and operate a new incineration facility would need to plan accordingly.

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 that own or operate incinerators because the amendment only affects new incinerator facilities.

Additionally, there is no cost or savings to any non-small businesses that choose to own and operate a new incinerator facility because the amended rule only prohibits the incineration of certain wastes in certain areas. Those non-small businesses that would like to own and operate a new incineration facility would need to plan accordingly.

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 that own or operate incinerators because the amendment only affects new incinerator facilities.

Additionally, there is no cost or savings to any persons other than small businesses, non-small businesses, state, or local government entities that choose to own and operate a new incinerator facility because the amended rule only prohibits the incineration of certain wastes in certain areas. Those businesses that would like to own and operate a new incineration facility would need to plan accordingly.

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

There are no compliance costs for affected persons because the amended rule does not change any requirements for existing facilities and any person planning to build, own, or operate a new facility would need to plan to comply with the amended rule.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Environmental Quality, Kim Shelley, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 19-6-104	Section 19-6-105	Section 19-6-108
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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.)

A) Comments will be accepted until: 01/03/2024

9. This rule change MAY become effective on: 01/15/2024

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	Date:	11/09/2023
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R315. Environmental Quality, Waste Management and Radiation Control, Waste Management. R315-306. Incinerator Standards.

R315-306-2. Requirements for Large Incinerators.

(1) These standards apply to any incinerator facility designed to incinerate more than ten tons of solid waste per day.

(2) A new incinerator facility shall:

(a) be subject to the location standards of Section R315-302-1 with the exception of ~~the following~~ Subsections R315-302-1(2)(a)(iv), ~~and~~ R315-302-1(2)(a)(v), R315-302-1(2)(e), and R315-302-1(3); and

(b) not incinerate infectious waste and chemotherapeutic agent waste within a two-mile radius of an area zoned as residential after January 1, 2014.

(3) Each owner or operator of an incinerator facility shall comply with Section R315-302-2. The submitted plan of operation shall also address alternative storage ~~or~~ disposal plans for ~~all~~any breakdowns that would result in overfilling the storage facility.

(4) The submitted plan of operation shall also contain a written waste identification plan ~~which~~that shall include identification of the specific waste streams to be handled by the facility, generator waste analysis requirements and procedures, waste verification procedures at the facility, generator certification of wastes shipped as being non~~-~~hazardous, and record keeping procedures, including a detailed operating record.

(5) Each incinerator facility shall be surrounded by a fence, trees, shrubbery, or natural features so as to control access and be screened from the view of immediately adjacent neighbors, unless the tipping floor is fully enclosed by a building. Each site shall also have an adequate buffer zone of at least 50 feet from the operating area to the nearest property line in areas zoned residential to minimize noise and dust nuisances.

(6) Solid waste shall be stored temporarily in storage compartments, containers, or areas specifically designed to store wastes. Storage of wastes other than in specifically designed compartments, containers, or areas specifically designed to store wastes is prohibited. Equipment and space shall be provided in the storage and charging areas, and elsewhere as needed, to allow periodic cleaning as may be required to maintain the plant in a sanitary and clean condition.

(7) A composite sample of the ash and residues from each incinerator facility shall be taken according to a sampling plan approved by the ~~D~~director.

NOTICES OF PROPOSED RULES

(a) The sample shall be analyzed by the ~~[U.S. EPA]~~[SW-846 Test Method 1311]~~[as provided in 40 CFR Part 261, Appendix II, 2000 ed.]~~, Toxic Characteristics Leaching Procedure (TCLP), as revised July 1992 to determine if it is hazardous.

(b) If the ash and residues are found to be nonhazardous, they shall be disposed at a permitted landfill or recycled.

(c) If the ash and residues are found to be hazardous, they shall be disposed in a permitted hazardous waste disposal site.

(8) Each incinerator ~~[must]~~shall be located, designed, constructed, and operated in a manner to comply with appropriate state and local air pollution control authority emission and operating requirements.

(9) An incinerator ~~[must]~~shall collect and treat ~~[all]~~any run-off from the active areas of the site that may result from a 25-year storm event, and divert ~~[all]~~any run-on for the maximum flow of a 25-year storm around the site.

(10) All-weather roads shall be provided from the public highways or roads, to and within the disposal site and shall be designed and maintained to prevent traffic congestion hazards, dust, and noise pollution.

(11) Access to the incinerator site shall be controlled by ~~[means of]~~a complete perimeter fence or other features and gates ~~[which]that~~ shall be locked when an attendant is not at the gate to prevent unauthorized entry of persons or livestock to the facility.

(12) The plan of operation shall include a training program for new employees and annual review training for ~~[all]~~each employee[s] to ensure safe handling of waste and proper operation of the equipment.

(13) Each owner or operator shall post signs at the facility ~~[which indicate]that state~~ the name, hours of operation, necessary safety precautions, types of wastes that are prohibited, and any other pertinent information.

(14) Each owner or operator of an incinerator facility shall be required to provide recycling facilities in a manner equivalent to those specified for landfills in Subsection R315-303-4(6).

(15) Each owner or operator of an incinerator facility shall implement a plan to inspect loads or take other steps, as approved by the ~~[D]~~director, to prevent the disposal of prohibited hazardous waste or prohibited waste containing ~~[PCB's]~~PCBs in a manner equivalent to those specified for landfills in Subsection R315-303-4(7).

(16) Each owner or operator shall close its incinerator by removing ~~[all]~~any ash, solid waste, and other residues to a permitted facility.

(17) Each owner or operator of an incinerator facility shall provide financial assurance to cover the costs for closure of the facility that meets the requirements of Rule R315-309.

R315-306-3. Requirements for Small Incinerators.

(1) Applicability.

(a) These requirements apply to any incinerator designed to incinerate ten tons[~~;~~] or less[~~;~~] of solid waste per day and incinerator facilities that incinerate solid waste only from on-site sources.

(b) If an incinerator processes 250 pounds[~~;~~] or less[~~;~~] of solid waste per week, the requirements of Section R315-306-3 do not apply and a permit from the ~~[D]~~director is not required but the facility may be regulated by other local, state, or federal requirements.

(2) Requirements.

(a) A new incinerator facility may not incinerate infectious waste and chemotherapeutic waste within a two-mile radius of an area zoned as residential after January 1, 2014.

~~[(a)]~~(b) Each owner and operator of an incinerator facility shall submit a plan of operation to the ~~[D]~~director that meets the requirements of Section R315-302-2.

~~[(b)]~~(c) The submitted plan of operation shall also address:

(i) alternative storage[~~;~~] or disposal plans for ~~[all]~~any breakdowns that would result in overfilling the storage areas;

(ii) identification of the specific waste streams to be handled by the facility;

(iii) generator waste analysis requirements and procedures;

(iv) waste verification procedures at the facility;

(v) generator certification of wastes shipped as being nonhazardous; and

(vi) recordkeeping procedures, including a detailed operating record.

~~[(c)]~~(d) Solid waste shall be stored temporarily only in storage compartments, containers, or areas specifically designed to store wastes.

(i) Storage of wastes other than in specifically designed compartments, containers, or areas specifically designed to store wastes is prohibited.

(ii) Equipment and space shall be provided in the storage and charging areas, and elsewhere as needed, to allow periodic cleaning as necessary to maintain the plant in a sanitary and clean condition.

~~[(d)]~~(e) Incinerator ash and residues from any incinerator shall be sampled, analyzed, and disposed as specified in Subsection R315-306-2(7).

~~[(e)]~~(f) The owner or operator of the incinerator shall prevent the disposal of prohibited hazardous waste or prohibited waste containing ~~[PCB's]~~PCBs as specified in Subsection R315-306-2(15).

~~[(f)]~~(g) The incinerator ~~[must]~~shall be designed, constructed, and operated in a manner to comply with appropriate state and local air pollution control authority emission and operating requirements.

~~[(g)]~~(h) The plan of operation shall include a training program for new employees and annual review training for ~~[all]~~each applicable employee[s] to ensure safe handling of waste and proper operation of the equipment.

~~[(h)]~~(i) The owner or operator of the incinerator shall close the facility by removing ~~[all]~~any solid waste, ash, and other residues to a permitted solid waste disposal facility.

~~[(i)]~~(j) The owner or operator of the incinerator facility shall provide financial assurance to cover the costs for closure of the facility that meets the requirements of Rule R315-309.

KEY: solid waste management, waste disposal

Date of Last Change: 2024~~[April 25, 2013]~~

Notice of Continuation: November 30, 2022

Authorizing, and Implemented or Interpreted Law: 19-6-104; 19-6-105; 19-6-108

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R315-309	Filing ID: 56184

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Waste Management	
Room number:	2nd Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	385-454-5574	tball@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R315-309. Financial Assurance
3. Purpose of the new rule or reason for the change:
The Division of Waste Management and Radiation Control, Waste Management (Division) is amending this rule to correct rule references that have changed due to other rule and statute amendments and providing clarifying language. The Division is also correcting typographical and rule formatting errors.
4. Summary of the new rule or change:
Clarifying language is being added in Subsection R315-309-1(1). The language makes it clear that financial assurance is required for any solid waste facility subject to the requirements of Subsection R315-310(1)(a). There are some approvals such as a plan of operation that are considered a permit by definition but are not routinely subject to financial assurance. Additional language was added to this rule to give the director of the division some discretion to require financial assurance for other facility types if necessary. The rule citation to Subsections R315-309-3(6)(b) and (c) was corrected to Subsections R315-309-9(6)(b) and (c).

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
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A) State budget:			
There is no cost or savings to the state budget due to this rule amendment because it does not change any rule requirements, only clarifies existing requirements.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
There is no cost or savings to small businesses due to this rule amendment because it does not change any rule requirements, only clarifies existing 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 due to this rule amendment because it does not change any rule requirements, only clarifies existing 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 due to this rule amendment because it does not change any rule requirements, only clarifies existing requirements.			
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):			
There are no compliance costs for affected persons. The changes add clarification to existing requirements with no fiscal impact.			
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

NOTICES OF PROPOSED RULES

Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Department of Environmental Quality, Kim Shelley, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 19-6-105		

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	01/03/2024
9. This rule change MAY become effective on:	01/15/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	Date:	11/09/2023
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R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.

R315-309. Financial Assurance.

R315-309-1. Applicability.

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

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

(3) Existing Facilities.

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

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

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

R315-309-8. Local Government Financial Test.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(v) the estimated landfill life in years.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) Local Government Guarantee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

R315-309-9. Corporate Financial Test.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) describe the findings of that comparison; and

(iv) explain the reasons for any differences.

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) Corporate Guarantee.

(a) A corporate owner or operator of a solid waste facility may demonstrate financial assurance for closure, post-closure care,

and corrective action by ~~obtaining~~ getting a written guarantee provided by a corporation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NOTICES OF PROPOSED RULES

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

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

KEY: solid waste management, waste disposal

Date of Last Change: 2024[April 25, 2013]

Notice of Continuation: November 30, 2022

Authorizing, and Implemented or Interpreted Law: 19-6-105; 40 CFR 258

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R315-310	Filing ID: 56185

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Waste Management	
Room number:	2nd Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	385-454-5574	tball@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R315-310. Permit Requirements for Solid Waste Facilities
3. Purpose of the new rule or reason for the change:
The Division Waste Management and Radiation Control, Waste Management (Division) is amending this rule to correct rule references that are incorrect, providing clarifying language, and amending rule language in accordance with legislation.
The Division is also correcting typographical and rule formatting errors.

4. Summary of the new rule or change:

Language was added to Section R315-310-1 to clarify that facility types not addressed specifically in sections of Rule R315-310 also require permits as found in other applicable parts of the rules. The amendment prevents disagreement between Section R315-310-1 and other parts of the rules, including the definition of "permit" in Subsection R315-301-2(55). The change will require compost facilities, transfer stations, recycling facilities, and waste pile facilities to apply for renewal of their permit every 10 years.

The citations to Subsection R315-310-1(a) found in Subsection R315-310-1(5) are being changed to the correct citation to Subsection R315-310-1(1).

Language is being added to Section R315-310-3 as required by H.B. 357 that was passed during the 2013 General Session of the Utah Legislature. The language details the financial information that local governments must submit with a permit application for a new facility.

Language has been deleted from Subsection R315-310-2(2) which required two copies of a permit application to be submitted to the director. Permit applications are now being received electronically and duplicate copies are not needed.

Language has been added to Subsection R315-310-3(1)(b) that extends the exemption for engineer signatures on designs and drawings to facility types not listed in Subsection R315-310-1(1)(b).

The citation to Subsection R315-310-3(3)(a)(i) found in Subsection R315-310-3(2)(a)(ii) and Subsection R315-310-3(2)(b) is being changed to the correct citation to Subsection R315-310-3(2)(a)(i).

Language has been added to Subsection R315-310-3(3)(a) to clarify that information to demonstrate that the requirements of Subsection 19-6-108(11) have been satisfied must be included with the permit application for a Commercial Solid Waste Disposal facility.

The citation to Subsections R315-310-3(2)(a), (b), and (c) found in Subsection R315-310-3(3)(d) is being changed to the correct citation to Subsections R315-310-3(3)(a), (b), and(c).

Language is being added to Subsection R315-310-3(3)(e) as required by S.B. 68 that was passed during the 2011 General Session of the Utah Legislature. The language clarifies that the governor's and legislature's approvals may be automatically revoked in accordance with Utah Code.

Language has been added to Subsection R315-310-10(1) that consolidates the information requirements for a post-closure care permit into one location to make it easier for applicants to locate the requirements. The language contains citations to the various sections of the solid waste rules where each of the requirements can be found.

A new requirement for operators of waste piles was added at Subsection R315-310-10(1)(e) that requires these operators to submit the information required by Subsection R315-314-2(2)(f).

Fiscal Information

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

A) State budget:

It is not anticipated that there will be any cost or savings to the state budget based on these amendments. The majority of the changes are clarifications and corrections.

New requirements that may have a cost impact include a permit renewal requirement for compost facilities, transfer stations, recycling facilities, and waste pile facilities.

The state does not currently operate any of these and it is not anticipated that it will in the future so there are no costs to the state budget due to these requirements.

Additionally, the amendments include a requirement for certain types of waste pile facilities to provide information and any costs that may be associated with gathering the information would be minimal and not measurable. The state does not operate an affected waste pile facility.

B) Local governments:

The majority of the changes are clarifications and corrections. However, there are 23 facilities operated by local governments that will now be required to apply for a permit renewal every 10 years. The facilities affected include compost facilities, transfer stations, recycling facilities, and waste pile facilities. It is typical for these facilities to make corrections or updates to their permits as needed. These facility types currently make changes to their plans of operation on an as-needed basis depending on changes to business practices, and occasional changes that improve compliance and implement best management practices. The efforts to make such changes are currently absorbed in the budgets of these facilities. It cannot be estimated whether the renewal of these plans of operation on a 10-year basis will increase costs.

Additionally, the amendments include a requirement for certain types of waste pile facilities to provide information and any costs that may be associated with gathering the information would be minimal and not measurable. No local governments currently operate an affected waste pile facility.

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

The majority of the changes are clarifications and corrections. However, there are 13 facilities operated by small businesses that will now be required to apply for a permit renewal every 10 years. The facilities affected include compost facilities, transfer stations, recycling

facilities, and waste pile facilities. These facility types currently make changes to their plans of operation on an as-needed basis depending on changes to business practices, and occasional changes that improve compliance and implement best management practices. The efforts to make such changes are currently absorbed in the budgets of these facilities. It cannot be estimated whether the renewal of these plans of operations on a 10-year basis will increase costs.

Additionally, the amendments include a requirement for certain types of waste pile facilities to provide information and any costs that may be associated with gathering the information would be minimal and not measurable.

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

The majority of the changes are clarifications and corrections. However, there are 10 facilities operated by non-small businesses that will now be required to apply for a permit renewal every 10 years. The facilities affected include compost facilities, transfer stations, recycling facilities, and waste pile facilities. These facility types currently make changes to their plans of operation on an as-needed basis depending on changes to business practices, and occasional changes that improve compliance and implement best management practices. The efforts to make such changes are currently absorbed in the budgets of these facilities. It cannot be estimated whether the renewal of these plans of operations on a 10-year basis will increase costs.

Additionally, the amendments include a requirement for certain types of waste pile facilities to provide information and any costs that may be associated with gathering the information would be minimal and not measurable.

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*):

The majority of the changes are clarifications and corrections. However, there is 1 waste pile facility operated by a person other than a small business, non-small business, state, or local government that will now be required to apply for a permit renewal every 10 years. These facility types currently make changes to their plans of operation on an as-needed basis depending on changes to business practices, and occasional changes that improve compliance and implement best management practices. The efforts to make such changes are currently absorbed in the budgets of these facilities. It cannot be estimated whether the renewal of these plans of operations on a 10-year basis will increase costs.

Additionally, the amendments include a requirement for certain types of waste pile facilities to provide information and any costs that may be associated with gathering the information would be minimal and not measurable.

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

The amendments include new requirements for compost facilities, transfer stations, recycling facilities, and waste pile facilities to apply for a permit renewal every 10 years. These facility types currently make changes to their plans of operation on an as-needed basis depending on changes to business practices, and occasional changes that improve compliance and implement best management practices. The efforts to make such changes are currently absorbed in the budgets of these facilities. It cannot be estimated whether the renewal of these plans of operations on a 10-year basis will increase costs.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Environmental Quality, Kim Shelley, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 19-6-105	Section 19-6-108	Section 19-6-109
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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.)

A) Comments will be accepted until: 01/03/2024

9. This rule change MAY become effective on: 01/15/2024

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	Date:	11/09/2023
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R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.

R315-310. Permit Requirements for Solid Waste Facilities.

R315-310-1. Applicability.

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

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

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

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

(iii) incinerator facilities that are regulated by Rule R315-306;

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

(v) waste tire storage facilities.

(b) Solid waste facilities not listed in Subsection R315-310-1(1)(a) are subject to the permitting requirements of Sections R315-310-2, R315-310-3, R315-310-9, R315-310-11, and the applicable requirements of Rules R315-301 through R315-320.

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

(i) compost facilities; and

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

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

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

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

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

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

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

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

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

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

R315-310-2. Procedures for Permits.

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

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

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

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

(a) for a corporation: by a principal executive officer of at least the level of vice~~-~~president;

(b) for a partnership or sole proprietorship: by a general partner or the proprietor;

(c) for a municipality, ~~S~~ Sstate, ~~F~~ Ffederal, or other public agency: by either a principal executive officer or ranking elected official; or

(d) by an ~~duly~~ authorized representative of the person ~~above~~ specified in Subsections R315-310-2(4)(a) through R315-310-2(4)(c), as appropriate.

(i) A person is an ~~authorized~~ authorized representative only if the authorization is made in writing, to the [D]director, by a person described in Subsection[s] R315-310-2(4)(a), R315-310-2(4)(b), or R315-310-2(4)(c), as appropriate.

(ii) ~~The~~ The authorization may specify either a named individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of facility manager, director, superintendent, or other position of equivalent responsibility.

(iii) If an authorization is no longer accurate and needs to be changed because a different individual or position has responsibility for the overall operation of the facility, a new authorization that meets the requirements of Subsections R315-310-2(4)(d)(i) and R315-310-2(4)(d)(ii) shall be submitted to the [D]director ~~prior to~~ before or together with any report, information, or application to be signed by the authorized representative.

(5) Filing Fee and Permit Review Fee.

(a) A filing fee, as required by the Annual Appropriations Act, shall accompany the filing of an application for a permit. The review of the application will not begin until the filing fee is received.

(b) A review fee, as established by the Annual Appropriations Act, shall be charged at an hourly rate for the review of an application. The review fee shall be billed quarterly and shall be due and payable quarterly.

(6) ~~All~~ Any content[s] and material[s] submitted as a permit application shall become part of the approved permit and shall be part of the operating record of the solid waste disposal facility.

(7) The owner or operator, or both, of a facility shall apply for renewal of the facility's permit ~~every~~ each ten years.

R315-310-3. General Contents of a Permit Application for a New Facility or a Facility Seeking Expansion.

(1) Each permit application for a new facility or a facility seeking expansion shall contain the following:

(a) the name and address of the applicant, property owner, and responsible ~~party~~ person for the site operation;

(b) a general description of the facility accompanied by facility plans and drawings and, except for Class IIIb, IVb, and Class VI Landfills, ~~and~~ facilities addressed in Subsection R315-310-1(1)(b) and, waste tire storage facilities, unless required by the [D]director, the facility plans and drawings shall be signed and sealed by a professional engineer registered in ~~the State of~~ Utah;

(c) a legal description and proof of ownership, lease agreement, or other mechanism approved by the [D]director of the proposed site, latitude and longitude map coordinates of the facility's front gate, and maps of the proposed facility site including land use and zoning of the surrounding area;

(d) the types of waste to be handled at the facility and area served by the facility;

(e) the plan of operation required by Subsection R315-302-2(2);

(f) the form used to record weights or volumes of wastes received required by Subsection R315-302-2(3)(a)(i);

(g) an inspection schedule and inspection log required by Subsection R315-302-2(5)(a);

(h) the closure and post-closure plans required by Section R315-302-3;

(i) documentation to show that any ~~[waste water]~~wastewater treatment facility, such as a run-off or a leachate treatment system, is being reviewed or has been reviewed by the Division of Water Quality;

(j) a proposed financial assurance plan that meets the requirements of Rule R315-309; and

(k) ~~[A]~~a historical and archeological identification efforts, which may include an archaeological survey conducted by a person holding a valid license to conduct surveys issued under Rule R694-1.

(l) An application for a new facility that is owned or operated by a local government shall include financial information that discloses the costs of establishing and operating the facility, including:

- (i) land acquisition and leasing;
- (ii) construction;
- (iii) estimated annual operation;
- (iv) equipment;
- (v) ancillary structures;
- (vi) roads;
- (vii) transfer stations; and
- (viii) other operations not contiguous to the proposed facility that are necessary to support the facility's construction and operation.

(2) Public Participation Requirements.

(a) Each permit application shall provide:

(i) the name and address of ~~[a]~~each owner[s] of property within 1,000 feet of the proposed solid waste facility; and

(ii) documentation that a notice of intent to apply for a permit for a solid waste facility has been sent to ~~[a]~~each property owner[s] identified in Subsection R315-310-3~~(2)~~(2)(a)(i)~~[-]~~; and

(iii) ~~[the Director with]~~the name of the local government with jurisdiction over the site and the mailing address of that local government office.

(b) The ~~[D]~~director shall send a letter to each person identified in Subsections R315-310-3~~(2)~~(2)(a)(i) and R315-310-3~~(2)~~(2)(a)(iii) requesting that ~~[they]~~the person reply, in writing, if ~~[they]~~the person desires ~~[their name]~~to be placed on an interested ~~[party]~~persons list to receive further public information concerning the proposed facility.

(3) Special Requirements for a Commercial Solid Waste Disposal Facility.

(a) The permit application for a commercial nonhazardous solid waste disposal facility shall contain the information required by Subsection~~[s]~~ 19-6-108~~(9) and~~(10), including information to demonstrate that the requirements of Subsection 19-6-108(11) are satisfied.

(b) ~~[Subsequent to]~~After the issuance of a solid waste permit by the ~~[D]~~director, a commercial nonhazardous solid waste disposal facility shall meet the requirements of Subsection 19-6-108(3)(c) and provide documentation to the ~~[D]~~director that the solid waste disposal facility is approved by the local government, the Legislature, and the governor.

(c) Construction of the commercial solid waste disposal facility may not begin until the requirements of Subsection~~[s]~~ R315-310-3(2)(b) are met and approval to begin construction has been granted by the ~~[D]~~director.

(d) Commercial solid waste disposal facilities solely under contract with a local government within the state to dispose of nonhazardous solid waste generated within the boundaries of the local government are not subject to Subsections R315-310-3~~(2)~~(3)(a), R315-310-3(3)(b), and R315-310-3(3)(c).

(e) The governor's approval and legislative approval may be automatically revoked in accordance with Subsections 19-6-108(3)(c)(iv) and 19-6-108(3)(c)(v).

R315-310-5. Contents of a Permit Application for a New or Expanding Class III, IV, or VI Landfill.

(1) Each application for a permit for a new Class III, IV, or VI ~~[H]~~landfill or for a permit to expand an existing Class III, IV, or VI Landfill shall contain the information required in Section R315-310-3.

(2) Each application shall also contain an engineering report, plans, specifications, and calculations that address:

(a) the information and maps required by Subsections R315-310-4(2)(a)(i) and R315-310-4(2)(a)(ii);

(b) the design and location of the run-on and run-off control systems;

(c) the information required by Subsections R315-310-4(2)(d) and R315-310-4(2)(e);

(d) the area to be served by the facility; and

(e) how the facility will meet the requirements of Rule R315-304, for a Class III Landfill, or Rule R315-305, for a Class IV or VI Landfill.

(3) Each application for a Class IIIa or Class IVa Landfill permit shall also contain the applicable information required in Subsections R315-310-4(2)(b) and R315-310-4(2)(c).

R315-310-7. Contents of a Permit Application for a New or Expanding Incinerator Facility.

(1) Each application for a new or expanding incinerator facility permit shall contain the information required in Section R315-310-3.

(2) Each application for a permit shall also contain:

(a) engineering report, plans, specifications, and calculations that address:

(i) the design of the storage and handling facilities on-site for incoming waste as well as fly ash, bottom ash, and any other wastes produced by air or water pollution controls; and

(ii) the design of the incinerator or thermal treater, including charging or feeding systems, combustion air systems, combustion or reaction chambers, including heat recovery systems, ash handling systems, and air pollution and water pollution control systems. Instrumentation and monitoring systems design shall also be included~~[-]~~;

(b) an operational plan that, in addition to the requirements of Section R315-302-2, addresses:

(i) cleaning of storage areas as required by Subsection R315-306-2(5);

(ii) alternative storage plans for breakdowns as required in Subsection R315-306-2(3);

(iii) inspections to ~~[insure]~~ensure compliance with state and local air pollution laws and to comply with Subsection R315-302-2(5)(a). The inspection log or summary ~~[must]~~shall be submitted with the application;

(iv) how and where the fly ash, bottom ash, and other solid waste will be disposed; and

(v) a program for excluding the receipt of hazardous waste equivalent to requirements specified in Subsection R315-303-4(7)~~[-]~~;

(c) documentation to show that air pollution and water pollution control systems are being reviewed or have been reviewed by the Division of Air Quality and the Division of Water Quality~~[-]~~;

(d) a closure plan to address:

(i) closure schedule;

- (ii) closure costs and a financial assurance mechanism to cover the closure costs;
- (iii) methods of closure and methods of removing wastes, equipment, and location of final disposal; and
- (iv) final inspection by regulatory agencies.

R315-310-9. Contents of an Application for a Permit Renewal.

The owner or operator, or both, where the owner and operator are not the same person, of each existing facility who intend to have the facility continue to operate, shall apply for a renewal of the permit by submitting the applicable information and application specified in Section[s] R315-310-3, R315-310-4, R315-310-5, R315-310-6, R315-310-7, or R315-310-8, as appropriate. Applicable information, that was submitted to the [D]director as part of a previous permit application, may be copied and included in the permit renewal application so that [aH]the required information is contained in one document. The information submitted shall reflect the current operation, monitoring, closure, post-closure, and [aH]any other aspects of the facility as currently established at the time of the renewal application [submitte]submittal.

R315-310-10. Contents of an Application for a Permit for a Facility in Post-Closure Care.

(1) The application for a Post-Closure Care permit shall contain the applicable information required in [Section R315-310-3 and documentation as to how the facility will meet the requirements of Section R315-302-3(5) and (6)]. Subsections R315-310-3(1)(a) through R315-310-3(1)(c), and R315-310-3(1)(g) through R315-310-3(1)(j), and:

- (a) for landfills, except CCR facilities:
 - (i) proof of recording with the county recorder as required by Subsection R315-302-2(6);
 - (ii) for Class I, II, IIIa, IVa, and V Landfills, demonstrate that the applicable requirements of Subsection R315-303(4) have been met;
 - (iii) for each Class III Landfill, the applicable requirements of Section R315-304-5;
 - (iv) for each Class IV or VI Landfill, the applicable requirements of Section R315-305-5;
 - (v) the applicable requirements for groundwater monitoring according to Rule R315-308; and
 - (vi) the financial assurance update requirements of Subsection R315-311-1(5);
- (b) for incinerator facilities the required financial assurance for incinerators according to Section R315-306-2 or R315-306-3, as applicable;
- (c) for landtreatment disposal facilities the applicable information required in Section R315-307-4;
- (d) for composting facilities the applicable information required in Subsection R315-312-3(5);
- (e) for waste piles subject to Rule R315-314 that are likely to produce leachate the applicable information required in Subsection R315-314-2(2)(f); and
- (f) for CCR facilities the applicable information required in Sections R315-319-100 through R315-319-104.

R315-310-11. Permit Transfer.

(1) A permit may not be transferred without approval from the [D]director, nor shall a permit be transferred from one property to another.

(2) The new owner or operator shall submit to the [D]director:

- (a) [A]a revised permit application no later than 60 days [prior to]before the scheduled change; and
- (b) [A]a written agreement containing a specific date for transfer of permit responsibility between the current permittee and the new permittee[s].
- (3) The new permittee shall:
 - (a) assume permit requirements and [aH]financial responsibility;
 - (b) provide adequate documentation that the permittee has or shall have ownership or control of the facility for which the transfer of permit has been requested;
 - (c) demonstrate adequate knowledge and ability to operate the facility in accordance with the permit conditions; and
 - (d) demonstrate adequate financial assurance as required in the permit and Rule R315-309 for the operation of the facility.
- (4) [When]If a transfer of ownership or operational control occurs, the old owner or operator shall comply with the requirements of Rule R315-309 until the new owner or operator has demonstrated that it is complying with the requirements of that rule.

(5) An application for permit transfer may be denied if the [D]director finds that the applicant has:

- (a) knowingly misrepresented a material fact in the application;
- (b) refused or failed to disclose any information requested by the [D]director;
- (c) exhibited a history of willful disregard of any state or federal environmental law; or
- (d) had any permit revoked or permanently suspended for cause under any state or federal environmental law.

KEY: solid waste management, waste disposal
Date of Last Change: 2024[July 15, 2016]
Notice of Continuation: November 30, 2022
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-108; 19-6-109; 40 CFR 258

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R315-311	Filing ID: 56179

Agency Information

1. Department:	Environmental Quality
Agency:	Waste Management and Radiation Control, Waste Management
Room number:	2nd Floor
Building:	MASOB
Street address:	195 N 1950 W
City, state and zip:	Salt Lake City, UT 84116
Mailing address:	PO Box 144880
City, state and zip:	Salt Lake City, UT 84114-4880

Contact persons:		
Name:	Phone:	Email:
Tom Ball	385-454-5574	tball@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
 R315-311. Permit Approval For Solid Waste Disposal, Waste Tire Storage, Energy Recovery, And Incinerator Facilities

3. Purpose of the new rule or reason for the change:
 This rule is being amended to require the Division of Waste Management and Radiation Control, Waste Management (Division) to follow the requirements of Rule R315-124 in addition to the requirements found in Rule R315-311 for permit actions taken by the Director.

4. Summary of the new rule or change:
 Citations to Rule R315-124 have been added at Subsection R315-311-1(1).

Subsection R315-311-1(1)(c) is being deleted because it is no longer needed with the amended Subsection R315-311-1(1), that provides that the application will be reviewed according to Section R315-124-3 and includes a similar requirement.

Subsection R315-311-1(2) is being reserved to maintain the numbering sequence of the existing rule. The former text has been removed because a permit application for which a draft permit is prepared must include all applicable requirements as found in Rules R315-301 through R315-320, as stated in the amended Subsection R315-124-6(d)(4).

Subsection R315-311-2(1) is being amended to require the Division to follow the requirements of Rule R315-124 for permit modification and termination requests.

The number of days for public comment is being changed from 30 to 45 in Subsection R315-311-2(1)(a). This subsection is also being amended to clarify that a public comment period for minor modifications may be required by Subsection R315-311-2(1)(b). The subsection is further amended to clarify that Subsection R315-311-2(1)(a)(vi) and Subsection R315-311-2(1)(a)(viii) are not minor modifications for coal combustion residual units.

Subsection R315-311-2(1)(a)(xi) and Subsection R315-311-2(1)(a)(xvi) are being amended to clarify that changes to sampling and analysis methods, procedures, and schedules are minor modifications if the changes conform to Rule R315-308.

The number of days for public comment is being changed from 30 to 45 in Subsection R315-311-2(1)(b).

Subsection R315-311-2(2) is being amended to require the Division to follow the requirements of Rule R315-124 for permit renewal in addition to the requirements of Section R315-311-3.

Subsection R315-311-2(3) is being amended to require the Division to follow the requirements of Rule R315-124 for permit termination requests.

Section R315-311-3 is being amended to change the number of days for public comment from 30 to 45 and to require the Division to follow the requirements of Rule R315-124.

Additionally, the Division is correcting typographical and formatting errors in the rule.

Fiscal Information

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

A) State budget:

Any costs for increased public participation activities will either be handled within the current budget of the Division or will be passed along to permittees, see below, and therefore, there will be no cost or savings to the state budget.

B) Local governments:

The cost of this amended rule to local governments will be the cost of publishing notice of the action being taken in local newspapers for compost facilities, transfer stations, recycling facilities, and waste pile facilities. This cost is billed by the Division to the permittee.

The cost of publishing a notice in a newspaper range from a low of \$48 to as high as \$311 depending on the size of the notice and the newspaper where it is being published. There are 23 permitted local government facilities that could be affected by this amended rule. Multiplying the number of permitted facilities by the estimated costs results in a cost range of \$1,104 to \$7,153.

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

The cost of this amended rule to small businesses will be the cost of publishing notice of the action being taken in local newspapers for compost facilities, transfer stations, recycling facilities, and waste pile facilities. This cost is billed by the Division to the permittee.

The cost of publishing a notice in a newspaper range from a low of \$48 to as high as \$311 depending on the size of the notice and the newspaper where it is being published. There are 13 permitted facilities operated by small businesses that could be affected by this amended rule.

Multiplying the number of permitted facilities by the estimated costs results in a cost range of \$624 to \$4,037.

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

The cost of this amended rule to non-small businesses will be the cost of publishing notice of the action being taken in local newspapers for compost facilities, transfer stations, recycling facilities, and waste pile facilities. This cost is billed by the Division to the permittee.

The cost of publishing a notice in a newspaper range from a low of \$48 to as high as \$311 depending on the size of the notice and the newspaper where it is being published. There are 10 permitted facilities operated by non-small businesses that could be affected by this amended rule. Multiplying the number of permitted facilities by the estimated costs results in a cost range of \$480 to \$3,110.

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**):

The cost of this amended rule to persons other than small businesses, non-small businesses, state or local government entities will be the cost of publishing notice of the action being taken in local newspapers for compost facilities, transfer stations, recycling facilities, and waste pile facilities. This cost is billed by the Division to the permittee.

The cost of publishing a notice in a newspaper range from a low of \$48 to as high as \$311 depending on the size of the notice and the newspaper where it is being published. There is 1 permitted facility operated by a person other than small businesses, non-small businesses, state or local government entities that could be affected by this amended rule. Multiplying the number of permitted facilities by the estimated costs results in a cost range of \$48 to \$311.

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

As stated above, the only cost for affected persons is the cost of publishing a notice in the newspaper of the action being taken by the Director for compost facilities, transfer stations, recycling facilities, and waste pile facilities.

There are no other compliance costs associated with this rule 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	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$7,153	\$7,153	\$7,153
Small Businesses	\$4,043	\$4,043	\$4,043
Non-Small Businesses	\$3,110	\$3,110	\$3,110
Other Persons	\$311	\$311	\$311
Total Fiscal Cost	\$14,617	\$14,617	\$14,617
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$14,617	\$14,617	\$14,617

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Environmental Quality, Kimberly Shelley, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 19-6-104 Section 19-6-105 Section 19-6-108

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 01/03/2024

9. This rule change MAY become effective on:	01/15/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	Date:	11/09/2023
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R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.

R315-311. Permit Approval For Solid Waste Disposal, Waste Tire Storage, Energy Recovery, And Incinerator Facilities.

R315-311-1. General Requirements.

(1) Unless otherwise stated in Rules R315-301 through R315-320, permit actions taken by the director are subject to Rules R315-311 and R315-124. Upon submittal of the complete information required by Rule R315-310, ~~as determined by the Director,~~ the application will be reviewed in accordance with Section R315-124-3 and a draft permit or permit denial will be prepared in accordance with Sections R315-124-5 through R315-124-6 ~~and the owner or operator of the new or existing facility will be notified in writing by the Director.~~

(a) After meeting the requirements of the public comment period and public hearing as stipulated in Section R315-311-3, the owner or operator may be issued a permit ~~which~~ that will include appropriate conditions and limitations on operation and types of waste to be accepted at the facility.

(b) Construction ~~shall~~ may not begin ~~prior to~~ before the receipt of the permit.

~~(c) An application that has been initiated by an owner or operator but for which the Director has not received a response to questions about the application for more than one year shall be canceled.~~

(2) ~~Solid waste disposal facility plan approval and permit issuance will depend upon:~~

~~(a) the adequacy of the facility in meeting the location standards in Section R315-302-1;~~

~~(b) the hydrology and geology of the area; and~~

~~(c) the adequacy of the plan of operation, facility design, and monitoring programs in meeting the requirements of the applicable rules.]Reserved.~~

(3) A permit can be granted for up to ten years by the ~~D~~ director, except as allowed in Subsection R315-311-1(5).

(4) The owner or operator, or both, ~~when~~ if the owner and the operator are not the same person, of each solid waste facility shall:

(a) apply for a permit renewal, as required by Section R315-310-~~10~~ 9, 180 days ~~prior to~~ before the expiration date of the current permit if the permit holder intends to continue operations after the current permit expires; and

(b) for facilities ~~for which~~ that require financial assurance ~~is required by~~ in accordance with Section R315-309-1, submit, for review and approval by the ~~D~~ director on a schedule of no less than ~~every~~ five years, a complete update of the financial assurance required in Rule R315-309 ~~which~~ that shall contain:

(i) a calculation of the current costs of closure as required by Subsection R315-309-2(3); and

(ii) a calculation that is not based on a closure cost ~~which~~ that has been ~~obtained~~ received by applying an inflation factor to past cost estimates.

(5) A permit for a facility in post-closure care:

~~(+)~~ (a) may be issued for the life of the post-closure care period; and

~~(+)~~ (b) the holder of the post-closure care permit shall comply with Subsection R315-311-1(4)(b).

R315-311-2. Permit Modification, Renewal, or Termination.

(1) A permit may be considered for modification~~,~~ renewal~~,~~ or termination at the request of any interested person, including the permittee, or upon the ~~D~~ director's initiative ~~as a result of new information or changes in statutes or rules. Requests for modification, reissuance, or termination shall be submitted in writing to the Director and shall contain facts or reasons supporting the request.]~~ in accordance with Section R315-124-5. Requests for permit modification~~,~~ renewal~~,~~ or termination shall become effective only upon approval by the ~~D~~ director and in accordance with Section R315-124-15.

(a) Minor modifications of a permit or plan of operation ~~shall~~ may not be subject to the ~~30~~ 45 day public comment period as required by Section R315-311-3, unless obligatory under Subsection R315-311-2(1)(b). ~~A permit]~~ The following modifications shall be considered minor~~,~~ except that Subsections R315-311-2(1)(a)(vi) and R315-311-2(1)(a)(viii) are not minor modifications for coal combustion residual units.

(i) Corrections of typographical errors ~~are corrected;~~

(ii) Changes to the name, address, or phone number of persons or agencies identified in the permit ~~are changed;~~

(iii) Changes to administrative or informational items ~~changes are made;~~

(iv) Making changes to procedures for maintaining the operating record ~~are changed~~ or the location where the operating record is kept ~~is changed;~~

(v) ~~e~~ Changes are made to provide for more frequent monitoring, reporting, sampling, or maintenance~~;~~

(vi) ~~A~~ compliance date extension request is made for a new date not to exceed 120 days after the date specified in the approved permit~~;~~

(vii) ~~e~~ Changes are made ~~to~~ to the expiration date of the permit to allow an earlier permit termination~~;~~

(viii) ~~e~~ Changes are made ~~to~~ to the closure schedule for a unit, ~~to~~ to the final closure schedule for the facility, or the closure period is extended~~;~~

(ix) ~~t~~ The ~~D~~ director determines, in the case of a permit transfer application, that no change in the permit other than the change in the name of the owner or operator is necessary~~;~~

(x) ~~e~~ Equipment is upgraded or replaced with functionally equivalent components~~;~~

(xi) ~~e~~ Changes are made in sampling or analysis methods, procedures, or schedules~~;~~ and those changes conform with Rule R315-308 if sampling or analyzing groundwater.

(xii) ~~e~~ Changes are made in the construction or ~~ground water] groundwater~~ groundwater monitoring quality control~~]~~ quality assurance plans ~~which~~ that will better certify that the specifications for construction, closure, sampling, or analysis will be met~~;~~

(xiii) ~~e~~ Changes are made in the facility plan of operation ~~which~~ that conform to guidance or rules approved by the Waste Management and Radiation Control Board or provide more efficient waste handling or more effective waste screening~~;~~

(xiv) ~~Replacement of~~ an existing monitoring well [is replaced] with a new well without changing the location[s].

(xv) ~~Changes~~ are made in the design or depth of a monitoring well that provides more effective monitoring[s].

(xvi) ~~Changes~~ are made in the statistical method used to statistically analyze the ~~ground water~~ groundwater quality data[~~s~~ or] that conform with Rule R315-308.

(xvii) Changes are made in any permit condition that are more restrictive or provide more protection to health or the environment.

(b) The ~~Director~~ director may subject any minor modification request to the ~~30-45~~ day public comment period described in Subsection R315-311-3(1) if justified by conditions and circumstances.

(c) A permit modification that does not meet the requirements of Subsection R315-311-2(1)(a) for a minor modification shall be a major modification.

(d) If the ~~Director~~ director determines that major modifications to a permit or plan of operation are justified, a new operational plan incorporating the approved modifications shall be prepared. The modifications shall be subject to the public comment period as specified in Section R315-311-3.

(2) An application for permit renewal shall consist of the information required by Section R315-310-9. Upon receipt[~~of the application~~], the ~~Director~~ director will review the application [and will notify the applicant as to what information or change of operational practice is required of the applicant, if any, to receive a permit renewal] in accordance with Section R315-124-3, and a draft permit or a notice of intent to deny will be prepared in accordance with Section R315-124-6. The current permit shall remain in effect until issuance or denial of a new permit. Each permit renewal shall be subject to the public comment requirements of Section R315-311-3.

(3) The ~~Director~~ director shall notify, in writing, the owner or operator of any facility of intent to terminate a permit in accordance with Subsections R315-124-5(d) and R315-124-5(e). A permit may be terminated for:

(a) noncompliance with any condition of the permit;

(b) noncompliance with any applicable rule;

(c) failure in the application or during the approval or renewal process to disclose fully ~~all~~ each relevant fact[s];

(d) misrepresentation by the owner or operator of any relevant facts at any time; or

(e) a determination that the solid waste activity or facility endangers human health or the environment.

(4) The owner or operator of a facility may appeal any action

associated with modification, renewal, or termination in accordance with Section R315-317-3, Title 63G Chapter 4, Administrative Procedures Act, and Rule R305-7.

R315-311-3. Public Comment Period.

(1) The draft permit, permit renewal, or major modification of a permit, for each solid waste facility that requires a permit, shall be subject to a ~~30-45~~ day public comment period and shall follow the procedures of Sections R315-124-10 through R315-124-20.

~~(2) A public hearing may be held if a request for public hearing is submitted to the Director in writing:~~

~~(a) by a local government, a state agency, ten interested persons, or an interested association having not fewer than ten members; and~~

~~(b) the request is received by the Director not more than 15 days after the publication of the public notice.~~

~~(3) After due consideration of all comments received, final determination on draft permits or major modification of permits will be made available by public notice.~~

KEY: solid waste management, waste disposal

Date of Last Change: 2024[April 25, 2013]

Notice of Continuation: November 30, 2022

Authorizing, and Implemented or Interpreted Law: 19-6-104; 19-6-105; 19-6-108

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R315-314	Filing ID: 56186

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Waste Management	
Room number:	2nd Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	385-454-5574	tball@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:
R315-314. Facility Standards for Piles Used for Storage and Treatment
3. Purpose of the new rule or reason for the change:
The Division of Waste Management and Radiation Control, Waste Management (Division) is amending this rule to correct a rule reference and add post-closure requirements. The Division is also correcting typographical and rule formatting errors.
4. Summary of the new rule or change:
Requirements for post-closure of a waste pile are being added at Subsection R315-314-2(2)(f).

The citation to Subsection R315-314-3(3)(1) found at Subsection R315-314-3(5)(b) is being corrected to Subsection R315-314-3(3)(k).

Fiscal Information

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

A) State budget:

There is no anticipated cost or savings to the state budget. There are currently no permitted waste piles operated by the state.

If the state has a future need for a permitted waste pile that has the potential to produce leachate, the amended language may result in costs if the pile remains in place for more than 1 year without the director's approval. The cost would be variable but can be estimated at an average of less than \$500.

B) Local governments:

There is no anticipated cost or savings to any local governments due to the amendments because there are no permitted waste piles currently being operated by local governments.

If a local government has a future need for a permitted waste pile that has the potential to produce leachate, the amended language may result in costs if the pile remains in place for more than 1 year without the director's approval. The cost would be variable but can be estimated at an average of less than \$500.

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

There is currently 1 small business operating a permitted waste pile in the state that has the potential to produce leachate. The added language provides clarification of the existing requirements found in Section R315-301-6, and the additional requirement to record the information on the property's title if the pile remains in place for more than 1 year without the director's approval.

The existing small business with a permitted waste pile is expected to convert to a landfill within the required timeframe, so no additional costs are expected for this facility. If another small business has a future need for a permitted waste pile that has the potential to produce leachate, the amended language may result in costs if the pile remains in place for more than 1 year without the director's approval. The cost would be variable but can be estimated at an average of less than \$500.

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

There is no anticipated cost or savings to any non-small businesses due to the amendments because there are no

permitted waste piles currently being operated by any non-small businesses.

If a non-small business has a future need for a permitted waste pile that has the potential to produce leachate, the amended language may result in costs if the pile remains in place for more than 1 year without the director's approval. The cost would be variable but can be estimated at an average of less than \$500.

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 currently 1 person other than small businesses, non-small businesses, state, or local government entities operating a permitted waste pile in the state that has the potential to produce leachate. The added language provides clarification of the existing requirements found in Section R315-301-6, and the additional requirement to record the information on the property's title if the pile remains in place for more than 1 year without the director's approval. The existing facility is not compliant with the conditions of their existing approval to store waste in piles for more than 1 year and may be required to record the operation on the property's title.

Additionally, if a person other than small businesses, non-small businesses, state, or local government entities has a future need for a permitted waste pile that has the potential to produce leachate, the amended language may result in costs if the pile remains in place for more than 1 year without the director's approval. The cost would be variable but can be estimated at an average of less than \$500.

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

The added language provides clarification of the existing requirements found in Section R315-301-6, and the additional requirement to record the information on the property's title when a facility expected to produce leachate has remained in place for more than 1 year without the director's approval. The cost would be variable but can be estimated at an average of less than \$500.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$500	\$500	\$500

Local Governments	\$500	\$500	\$500
Small Businesses	\$500	\$500	\$500
Non-Small Businesses	\$500	\$500	\$500
Other Persons	\$500	\$500	\$500
Total Fiscal Cost	\$2,500	\$2,500	\$2,500
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	(\$2,500)	(\$2,500)	(\$2,500)
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Department of Environmental Quality, Kim Shelley, has reviewed and approved this regulatory impact analysis.			

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 19-6-104	Section 19-6-105	Section 19-6-108

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	01/03/2024
9. This rule change MAY become effective on:	01/15/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	Date:	11/09/2023
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R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.

R315-314. Facility Standards for Piles Used for Storage and Treatment.

R315-314-1. Applicability.

(1) The requirements of Rule R315-314 apply to the following:

- (a) a pile of solid waste containing garbage that has been in place for more than seven days;
- (b) a pile of solid waste ~~which~~that does not contain garbage that has been in place for more than 90 days;
- (c) a pile of material derived from waste tires ~~where~~if more than 1,000 passenger tire equivalents are stored at one site; and
- (d) a pile of whole waste tires ~~where~~if more than 1,000 tires are stored at one site.

(2) The requirements of Rule R315-314 do not apply to the following:

- (a) solid waste stored or treated in piles ~~prior to~~before recycling including compost piles and wood waste;
- (b) solid waste stored in fully enclosed buildings, provided that no liquids or sludge containing free liquids are added to the waste;
- (c) a pile of inert waste, as defined by Subsection R315-301-2(36); and
- (d) a pile of whole waste tires located at a permitted waste disposal facility that is stored for not longer than one year.

(3) A site where crumb rubber, an ultimate product derived from waste tires, or waste tires that have been reduced to materials for beneficial use are stored for not longer than one year may receive a waiver of the requirements of Rule R315-314 from the ~~D~~director on a site specific basis.

(a) No waiver of the requirements of Rule R315-314 will be granted by the ~~D~~director without application from the owner or operator of the storage site.

(b) In granting a waiver of the requirements of Rule R315-314, the ~~D~~director may place conditions on the owner or operator of the storage site as to the sizes of piles, distance between piles, or other operational practices that will minimize fire danger or a risk to human health or the environment.

(c) The ~~D~~director may revoke a waiver of the Requirements of Rule R315-314 if the ~~D~~director finds that:

- (i) any condition of the waiver is not met; or
- (ii) the operation of the storage site presents a fire danger or a threat to human health or the environment.

R315-314-2. General Requirements.

(1) Each owner and operator shall:
 (a) comply with the applicable requirements of Section R315-302-2; and

(b) remove ~~all~~the solid waste from the pile at closure to another permitted facility.

(2) Requirements for ~~S~~solid ~~W~~waste ~~L~~likely to ~~P~~produce ~~L~~leachate.

(a) Waste piles shall be placed upon a surface such as sealed concrete, asphalt, clay, or an artificial liner underlying the pile to prevent subsurface soil and potential ~~ground water~~groundwater contamination and to allow collection of run-off and leachate. The

NOTICES OF PROPOSED RULES

liner shall be designed of sufficient thickness and strength to withstand stresses imposed by pile handling vehicles and the pile itself.

(b) A run-off collection and treatment system shall be designed, installed, and maintained to collect and treat a 25-year storm event.

(c) Waste piles having a capacity of greater than 10,000 cubic yards shall have either:

(i) a ~~ground-water~~ groundwater monitoring system that complies with Rule R315-308; or

(ii) a leachate detection, collection, and treatment system.

(iii) For ~~purposes of this subsection~~ Subsection R315-314-2(2), capacity refers to the total capacity of ~~all~~ the leachate-~~[-]~~ generating piles at one facility, ~~e.g. for example~~, two, 5,000 cubic yard piles will subject the facility to the requirements of ~~this subsection~~ Subsection R315-314-2(2).

(d) A run-on prevention system shall be designed and maintained to divert the maximum flow from a 25-year storm event.

(e) The ~~D~~ director may require that the entire base or liner shall be inspected for wear and integrity and repaired or replaced by removing stored wastes or otherwise providing inspection access to the base or liner; the request shall be in writing and cite the reasons including valid ~~ground-water~~ groundwater monitoring or leachate detection data leading to request ~~such~~ an inspection, repair, or replacement.

(f) Post-closure requirements.

(i) Within 30 days of closure, a facility shall:

(A) remove any piles, windrows, and any other material on the facility's property;

(B) remove or revegetate compacted material that may be left on the land;

(C) drain ponds or leachate collection system, if any, backfill, and assure removed contents are properly disposed;

(D) cover if necessary; and

(E) for any pile not meeting the requirements of Subsection R315-314-2(3) record with the county recorder as part of the record of title, a plat and statement of fact that the property has been used for a waste pile.

(ii) Unless the facility owner or operator demonstrates that the requirements of Section R315-301-6 are met and receives a waiver from the director, post-closure care and monitoring shall be for five years and shall consist of:

(A) the maintenance of any monitoring equipment and sampling and testing schedules as required by the director; and

(B) inspection and maintenance of any cover material.

(3) The length of time that solid waste may be stored in piles ~~shall~~ may not exceed ~~[-]~~ one year unless the ~~D~~ director determines that the solid waste may be stored in piles for a longer time period without becoming a threat to human health or the environment.

(4) The ~~D~~ director or an authorized representative may enter and inspect a site where waste is stored in piles as specified in Subsection R315-302-2(5)(b).

R315-314-3. Requirements for a Waste Tire Storage Facility.

(1) The definitions of Section R315-320-2 are applicable to the requirements for a waste tire storage facility.

(2) No waste tire storage facility may be established, maintained, or expanded until the owner or operator of the waste tire storage facility has ~~obtained~~ received a permit from the ~~D~~ director. The owner or operator of the waste tire storage facility shall operate

the facility in accordance with the conditions of the permit and otherwise follow the permit.

(3) The owner or operator of a waste tire storage facility shall:

(a) submit the following for approval by the ~~D~~ director:

(i) the information required in ~~Subsections~~ Section R315-310-8;

(ii) a plan of operation as required by Subsection R315-302-2(2);

(iii) a plot plan of the storage site showing:

(A) the arrangement and size of the tire piles on the site;

(B) the width of the fire lanes and the type and location of the fire control equipment; and

(C) the location of any on-site buildings and the type of fencing to surround the site;

(iv) a financial assurance plan including the date that the financial assurance mechanism becomes effective; and

(v) a vector control plan;

(b) accumulate tires only in designated areas;

(c) control access to the storage site by fencing;

(d) limit individual tire piles to a maximum of 5,000 square feet of continuous area in size at the base of the pile;

(e) limit the individual tire piles to 50,000 cubic feet in volume or ~~40~~ ten feet in height;

(f) ~~insure~~ ensure that piles be at least ~~40~~ ten feet from any property line or any building and not exceed ~~6~~ six feet in height ~~when~~ if within 20 feet of any property line or building;

(g) provide for a 40 foot fire lane between tire piles that contains no flammable or combustible material or vegetation;

(h) effect a vector control program, if necessary, to minimize mosquito breeding and the harborage of other vectors such as rats or other animals;

(i) provide on-site fire control equipment that is maintained in good working order;

(j) display an emergency procedures plan and inspection approval by the local fire department and require ~~all~~ each employee[s] to be familiar with the plan;

(k) establish financial assurance for clean~~-~~up and closure of the site:

(i) in the amount of \$150 per ton of tires stored at the site; and

(ii) in the form of a trust fund, letter of credit, or other mechanism as approved by the ~~D~~ director;

(l) maintain a record of the number of:

(i) tires received at the site;

(ii) tires shipped from the site;

(iii) piles of tires at the site; and

(iv) tires in each pile; and

(m) meet the applicable reporting requirements of Subsection R315-302-2(4).

(4) Whole ~~T~~ S tires stored in a ~~T~~ F fence.

(a) Whole ~~T~~ F tires stored in a tire fence are exempt from Subsections R315-314-3(3)(e), R315-314-3(3)(f), and R315-314-3(3)(g) but ~~must~~ shall:

(i) ~~obtain~~ get a permit from the ~~D~~ director as required by Subsection R315-314-3(2);

(ii) receive approval for establishing, maintaining, or expanding the tire fence from the local government and the local fire department and submit documentation of these approvals to the ~~D~~ director; and

(iii) maintain the fence no more than one tire wide and eight feet high.

(b) An owner of a tire fence may receive a waiver from the requirements of Subsection R315-314-3(4)(a)(i) if the ~~D~~director receives written notice from the owner of the tire fence on or before November 15, 1999 that documents and certifies that:

(i) the tire fence was in existence ~~prior to~~before October 15, 1999; and

(ii) no tires have been added to the fence after October 14, 1999.

(5) Each tire recycler, as defined by Subsection 19-6-803(19), that stores tires in piles ~~prior to~~before recycling shall comply with the following requirements:

(a) if the tire recycler documents that the waste tires are stored for five or fewer days, the tire recycler shall:

(i) meet the requirements of Subsections R315-314-3(3)(b) through R315-314-3(3)(g); or

(ii) ~~obtain~~get a waiver from the requirements of Subsections R315-314-3(3)(b) through R315-314-3(3)(g) from the local fire department; or

(b) if the tire recycler does not document that the waste tires are stored for five or fewer days, the tire recycler shall be considered a waste tire storage facility and shall:

(i) meet the requirements of Subsections R315-314-3(2) and R315-314-3(3); and

(ii) the amount of financial assurance required by Subsection R315-314-3(3)~~(4)~~(k) shall be \$150 per ton of tires held as the average inventory during the preceding year of operation.

KEY: solid waste management, waste disposal

Date of Last Change: 2024~~April 25, 2013~~

Notice of Continuation: November 30, 2022

Authorizing, and Implemented or Interpreted Law: 19-6-104; 19-6-105; 19-6-108

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R357-13-8	Filing ID: 56205

Agency Information

1. Department:	Governor	
Agency:	Economic Opportunity	
Room number:	Suite 300	
Building:	World Trade Center	
Street address:	60 E South Temple	
City, state and zip:	Salt Lake City, UT 84111	
Contact persons:		
Name:	Phone:	Email:
Dane Ishihara	801-792-8764	dishihara@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R357-13-8. Procedures for the Administration of the Hotel Impact Mitigation Fund
3. Purpose of the new rule or reason for the change:
This rule filing clarifies the procedures for the administration of the Hotel Impact Mitigation Fund and makes technical changes.
4. Summary of the new rule or change:
Subsection R357-13-8(1) amends Go Utah to GOEO.
Subsection R357-13-8(2) clarifies that the application format is determined by the office.
Subsection R357-13-8(3) clarifies that the timeframe to calculate direct loss is October 1st to September 30th of each new claim year.
Subsection R357-13-8(4) clarifies that the applicant as to demonstrate:
1) that the hotel is located within one mile of 170 South West Temple, Salt Lake City;
2) baseline income is determined October 1, 2018, to September 30, 2019;
3) income is determined October 1st to September 30th of each claim year; and
4) the applicant has to have entered into a contract with the office.
Subsection R357-13-8(5) establishes how the office determines eligibility of claims.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated cost or savings to the state budget. This rule is procedural in nature and participation in the program is optional.
B) Local governments:
This rule change is not expected to have a fiscal impact on local governments' revenues or expenditures because local governments are not required to comply with or enforce this rule.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule change will not have a fiscal impact on small businesses. This rule is procedural in nature and participation in the program is optional.

WASTE MANAGEMENT AND RADIATION CONTROL BOARD

Executive Summary

Final Adoption

UAC R313-19, UAC R313-21, and UAC R313-22

January 11, 2024

What is the issue before the Board?	Approval from the Board is needed for final adoption of proposed changes to UAC R313-19, UAC R313-21, and UAC R313-22 of the radiation control rules to make changes requested by the Nuclear Regulatory Commission (NRC) to ensure compatibility of Utah rules with the federal regulations.
What is the historical background or context for this issue?	<p>At the Board meeting on November 9, 2023, the Board approved the proposed changes to UAC R313-19, UAC R313-21 and UAC R313-22 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, 2023, issue of the Utah State Bulletin (Vol. 2023, 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, 2024. No comments were received.</p>
What is the governing statutory or regulatory citation?	<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>
Is Board action required?	Yes. Board approval for final adoption of the rule changes is necessary.
What is the Division Director's recommendation?	The Director recommends the Board approve final adoption of changes to UAC R313-19, UAC R313-21, and UAC R313-22 as published in the December 1, 2023, Utah State Bulletin and set an effective date of January 16, 2024.
Where can more information be obtained?	Please contact Tom Ball by email at tball@utah.gov or by phone at 385-454-5574.

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed November 02, 2023, 12:00 a.m. through November 15, 2023, 11:59 p.m.

Number 2023-23
December 01, 2023

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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NOTICES OF PROPOSED RULES

(ii) for a general education student, the cost of services provided in a general education classroom by special education personnel;

(iii) for resource students, the cost of services provided in a special education classroom by pull-out from the general education classroom;

(iv) for a student in a special class, the cost of services provided in a special education classroom for all or most of the day; and

(v) for a student in a special school, the cost of services provided in a separate school where all students have disabilities.

(b) "Cost of setting" is calculated by dividing the sum of costs for teachers and paraprofessionals in a given learning environment by the number of students in the same learning environment.

(4) "Local education agency" or "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(5) "Small LEA" means an LEA with enrollment of less than 5,000 students as shown on the most recent October 1 count.

(6) "Special education intensive services fund" means funding available to offset the costs of students whose educational program exceeds three times the state average per pupil expenditures.

R277-752-3. Application Process - Distribution Formula.

(1) Beginning in the 20-21 school year, to receive an annual allocation from the special education intensive services fund, an LEA shall annually submit to the Superintendent an application by June 30, on a form approved by the Superintendent.

(2)(a) Except as provided in Subsection (2)(b), if the carry forward balances of an LEA's state special education programs exceed 20% of the LEA's special education budget as of June 30 of the prior fiscal year as reported in the LEA's Annual Program Report, the LEA may not submit an application for an annual allocation or reimbursement under the intensive services fund.

(b) An LEA with prior fiscal year carry forward balances that exceed 20% as described in Subsection (2)(a) may submit an application for an annual allocation or reimbursement under the intensive services fund if the LEA:

(i) demonstrate the LEA's state special education carry forward balances do not exceed 20% of the LEA's special education current year budget as of December 31; and

(ii) submits a balance sheet, signed by the LEA's superintendent or charter school director certifying the LEA's state special education fund balances as of December 31 immediately ~~prior to~~ before filing the application.

(3) From the special education intensive services fund, the Superintendent shall allocate up to the base reimbursement level to all qualifying LEAs.

(4)(a) Following the distribution described in Subsection (3), the Superintendent shall set aside funding for qualifying small LEAs proportional to the small LEAs' share of self-contained special education students.

(b) The Superintendent shall distribute the funds set aside in accordance with Subsection (4)(a) to small LEAs following the step down reimbursement formula described in Subsections (5)(a) through (d).

(5) Following the distribution described in Subsection (4), the Superintendent shall distribute any remaining funds to LEAs using a step down reimbursement process as described in this Subsection (5):

(a) The first step is to reimburse for the highest cost student equal to the difference between the highest cost student and the second highest cost student.

(b) The second step is to reimburse for the highest cost student and second highest cost student equal to the difference between the second highest cost student and the third highest cost student.

(c) The Superintendent shall continue the step down reimbursement process described in this subsection until funds are exhausted.

(d) In determining student cost under this Subsection (5), the Superintendent shall sum expenses from an LEA's application described in Subsection (1) less:

(i) the state average per pupil expenditures using data from the most recently published State Superintendent's Annual Report; and

(ii) reimbursements from private insurance or Medicaid.

(6)(a) The Superintendent shall maintain and publish a list of costs eligible for reimbursement under this rule along with the rate of reimbursement.

(b)(i) The Superintendent shall exclude cost of setting from reimbursement calculations.

(ii) Notwithstanding Subsection (6)(b)(ii), the Superintendent shall allow reimbursement of cost of setting to a small LEA.

(7)(a) If an LEA's carry forward exceeds the LEA's special education budget by an amount greater than 20% of the special education budget, the Superintendent shall recoup funds in excess of the 20% carry forward and make the funds available for distribution in the next year's intensive services fund program.

(b) Notwithstanding the requirements of Subsection (7)(a), an LEA has three years to spend carry forward fund balances incurred ~~prior to~~ before June 30, 2019.

R277-752-4. Rule Sunset and Carry Forward Funds.

(1) The Superintendent will cease intensive services fund distributions after June 30, 2024.

(2) The Superintendent shall recoup any carry forward balance for special education funding in excess of 10% of an LEA's special education budget after June 30, 2026 and return the funds to the Uniform School Fund.

(3) Section R277-752-3 will sunset on June 30, 2024.

KEY: special education, intensive services fund

Date of Last Change: 2024[March 11, 2024]

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4)

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R313-19-13	Filing ID: 56174

Agency Information

1. Department:	Environmental Quality
Agency:	Waste Management and Radiation Control, Radiation

Room number:	Second Floor	
Building:	MASOB	
Street address:	195 N.1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	385-454-5574	tball@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R313-19-13. Exemptions
3. Purpose of the new rule or reason for the change:
The purpose of this amendment is to incorporate changes requested by the Nuclear Regulatory Commission (NRC) to ensure compatibility of Utah rules with the federal regulations. Additionally, the Division of Waste Management and Radiation Control, Radiation (Division) is correcting formatting and typographical errors that have been discovered in this rule.
4. Summary of the new rule or change:
Subsection R313-19-13(1)(c)(vii) addresses thorium or uranium contained in or on finished optical lenses and mirrors. The NRC commented that the word "mirror" had been left out of the text in Subsection R313-19-13(1)(c)(vii)(A) and needed to be added for consistency. The words "or mirror" have been added to this subsection after the word "lens" wherever it appears. The NRC commented that the word "uranium" had been left out of the text in Subsection R313-19-13(1)(c)(vii)(B) and needed to be added for consistency. The words "uranium or" have been added to this subsection before the word "thorium". The NRC commented that citations to 10 CFR 40.32 (b) and 10 CFR 40.32(c) were missing from Subsection R313-19-13(1)(c)(ix)(B). These citations have been added.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:			
A) State budget:			
There is no anticipated cost or savings to the state budget due to this amendment because it does not add any new or change any existing requirements.			
B) Local governments:			
There is no anticipated cost or savings to local governments due to this amendment because it does not add any new or change any existing requirements.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
There is no anticipated cost or savings to small businesses due to this amendment because it does not add any new or change any existing requirements.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
There is no anticipated cost or savings to non-small businesses due to this amendment because it does not add any new or change any existing 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 <i>agency</i>):			
There is no anticipated cost or savings to persons other than small businesses, non-small businesses, state, or local government entities due to this amendment because it does not add any new or change any existing requirements.			
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):			
There are no compliance costs for affected persons due to this amendment because it does not add any new or change any existing 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	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0

NOTICES OF PROPOSED RULES

Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Department of Environmental Quality, Kimberly 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.)	
A) Comments will be accepted until:	01/03/2024
9. This rule change MAY become effective on:	01/15/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	Date:	11/09/2023
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R313. Environmental Quality, Waste Management and Radiation Control, Radiation.

R313-19. Requirements of General Applicability to Licensing of Radioactive Material.

R313-19-13. Exemptions.

- (1) Source material.
 - (a) A person is exempt from Rules R313-19, R313-21, and R313-22 to the extent that the person receives, possesses, uses, owns, or transfers source material in a chemical mixture, compound, solution or alloy ~~in which~~ that the source material is by weight less than 1/20 of one percent, ~~[{0.05%,-percent}]~~ of the mixture, compound, solution, or alloy.
 - (b) A person is exempt from Rules R313-19, R313-21, and R313-22 to the extent that the person receives, possesses, uses or transfers unrefined and unprocessed ore containing source material~~;~~ ~~provided,~~ ~~except~~ that, ~~[except as]~~ ~~unless~~ authorized in a specific license, ~~[such]~~ the person ~~[shall]~~ ~~may~~ not refine or process the ore.
 - (c) A person is exempt from the requirements in Rules R313-15, R313-18, R313-19, R313-21, and R313-22 to the extent that the person receives, possesses, uses or transfers:
 - (i) any quantities of thorium contained in:
 - (A) incandescent gas mantles~~;~~;
 - (B) vacuum tubes~~;~~;
 - (C) welding rods~~;~~;
 - (D) electric lamps for illuminating purposes~~;~~ ~~provided that, each lamp does~~ that do not contain more than 50 milligrams of thorium~~;~~;
 - (E) germicidal lamps, sunlamps, and lamps for outdoor or industrial lighting ~~[provided that each lamp does]~~ that do not contain more than two grams of thorium~~;~~;
 - (F) rare earth metals and compounds, mixtures, and products containing not more than 0.25 percent by weight thorium, uranium, or any combination of these~~;~~;
 - (G) personnel neutron dosimeters ~~[provided that each dosimeter does]~~ that do not contain more than 50 milligrams of thorium;
 - (ii) source material contained in the following products:
 - (A) glazed ceramic tableware manufactured before October 16, 2017, ~~[provided that]~~ if the glaze does not contain ~~[s-not]~~ more than 20 percent by weight source material;
 - (B) piezoelectric ceramic containing not more than two percent by weight source material; or
 - (C) glassware containing not more than two percent by weight source material or, for glassware manufactured before October 16, 2017, not more than ten percent by weight source material, but not including commercially manufactured glass brick, pane glass, ceramic tile, or other glass or ceramic used in construction;
 - (iii) photographic film, negatives and prints containing uranium or thorium;
 - (iv) a finished product or part fabricated of, or containing, tungsten-thorium or magnesium-thorium alloys, ~~[provided that]~~ if the thorium content of the alloy does not exceed four percent by weight and that this exemption ~~[shall]~~ ~~may~~ not be ~~[deemed]~~ ~~considered~~ to authorize the chemical, physical, or metallurgical treatment or processing of the product or part;

(v) uranium contained in counterweights installed in aircraft, rockets, projectiles, and missiles, or stored or handled in connection with installation or removal of the counterweights, ~~provided that~~ if:

(A) each counterweight has been impressed with the following legend clearly legible through any plating or other covering: "DEPLETED URANIUM"~~;~~ and

(B) each counterweight is durably and legibly labeled or marked with the identification of the manufacturer and the statement: "UNAUTHORIZED ALTERATIONS PROHIBITED"~~;~~

(C) The requirements specified in Subsections R313-19-13(1)(c)(v)(A) and R313-19-13(1)(c)(v)(B) need not be met by counterweights manufactured ~~prior to~~ before December 31, 1969, provided that ~~such~~ the counterweights were manufactured under a specific license issued by the Atomic Energy Commission and were impressed with the legend, "CAUTION - RADIOACTIVE MATERIAL - URANIUM", as previously required by the rules in effect on June 30, 1969~~and~~.

~~(E)D~~ ~~(f)~~ The exemption contained in Subsection R313-19-13(1)(c)(v) ~~shall~~ may not be ~~deemed~~ considered to authorize the chemical, physical, or metallurgical treatment or processing of any ~~such~~ counterweights other than repair or restoration of any plating or other covering;

(vi) natural or depleted uranium metal used as shielding constituting part of a shipping container ~~which~~ that is conspicuously and legibly impressed with the legend "CAUTION - RADIOACTIVE SHIELDING - URANIUM" and the uranium metal is encased in mild steel or equally fire resistant metal of minimum wall thickness of ~~one eighth~~ 1/8 inch, ~~(f)~~ 3.2 mm~~);~~

(vii) thorium or uranium contained in or on finished optical lenses and mirrors, ~~provided that~~ if each lens or mirror does not contain more than 10 percent by weight thorium or uranium or, for lenses manufactured before October 16, 2017, 30 percent by weight of thorium, and that this exemption shall not be ~~deemed~~ considered to authorize either:

(A) the shaping, grinding, or polishing of a lens or mirror or manufacturing processes other than the assembly of ~~such~~ a lens or mirror into optical systems and devices without alteration of the lens or mirror~~;~~ or

(B) the receipt, possession, use, or transfer of uranium or thorium contained in contact lenses, or in spectacles, or in eyepieces in binoculars or other optical instruments;

(viii) thorium contained in a finished aircraft engine part containing nickel-thoria alloy, ~~provided that~~ if:

(A) the thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria, ~~(f)~~ thorium dioxide~~;~~; and

(B) the thorium content in the nickel-thoria alloy does not exceed four percent by weight.

(ix) No person may initially transfer for sale or distribution a product containing source material to persons exempt under Subsection R313-19-13(1)(c), or equivalent regulations of an Agreement State, unless authorized by a license issued under 10 CFR 40.52 to initially transfer ~~such~~ the products for sale or distribution.

(A) A person initially distributing source material in products covered by the exemptions in ~~this~~ Subsection R313-19-13(1)(c) before (Utah effective date to be set by the Board), without specific authorization may continue ~~such~~ the distribution for one year beyond this date. Initial distribution may also be continued until the director takes final action on a pending application for license or license amendment to specifically authorize distribution submitted no later than one year beyond this date.

(B) A person authorized to manufacture, process, or produce these materials or products containing source material by an Agreement State, and a person who imports finished products or parts, for sale or distribution ~~must~~ shall be authorized by a license issued under 10 CFR 40.52 for distribution only and are exempt from the requirements of Rules R313-15 and R313-18 and Subsections R313-22-33(1)(a) and R313-22-33(1)(b) and 10 CFR 40.32 (b) and 10 CFR 40.32(c).

(d) The exemptions in Subsection R313-19-13(1)(c) do not authorize the manufacture of any of the products described.

(2) Radioactive material other than source material.

(a) Exempt concentrations.

(i) Except as provided in Subsection R313-19-13(2)(a)(iii) a person is exempt from Rules R313-19, R313-21 and R313-22 to the extent that the person receives, possesses, uses, transfers, owns or acquires products or materials containing:

(A) radioactive material introduced in concentrations not ~~in excess of~~ more than those listed in Section R313-19-70~~;~~ or

(B) diffuse sources of natural occurring radioactive materials containing less than 15 picocuries per gram radium-226.

(ii) A manufacturer, processor, or producer of a product or material is exempt from the requirements for a license set forth in Rules R313-19, R313-21, ~~and~~ R313-22, ~~and Rules~~ R313-32, R313-34, R313-36, and R313-38 to the extent that the person transfers:

(A) radioactive material contained in a product or material in concentrations not ~~in excess of~~ more than those specified in Section R313-19-70; and

(B) introduced into the product or material by a licensee holding a specific license issued by the U.S. Nuclear Regulatory Commission authorizing the introduction.

(C) The exemption in Subsections R313-19-13-2(2)(a)(ii)(A) and R313-19-13-2(2)(a)(ii)(B) does not apply to the transfer of radioactive material contained in any food, beverage, cosmetic, drug, or other commodity or product designed for ingestion or inhalation by, or application to, a human being.

(iii) A person may not introduce radioactive material into a product or material knowing or having reason to believe that it will be transferred to persons exempt under Subsection R313-19-13(2)(a)(i) or equivalent regulations of a Licensing State, the U.S. Nuclear Regulatory Commission or an Agreement State, except in accordance with a specific license issued pursuant to Subsection R313-22-75(1).

(b) Exempt quantities.

(i) Except as provided in Subsections R313-19-13(2)(b)(ii) through R313-19-13(2)(b)(iv) a person is exempt from ~~these rules~~ Title R313 to the extent that the person receives, possesses, uses, transfers, owns, or acquires radioactive material in individual quantities ~~which~~ that do not exceed the applicable quantity set forth in Section R313-19-71.

(ii) Subsection R313-19-13(2)(b) does not authorize the production, packaging or repackaging of radioactive material for purposes of commercial distribution, or the incorporation of radioactive material into products intended for commercial distribution.

(iii) A person may not, for purposes of commercial distribution, transfer radioactive material in the individual quantities set forth in Section R313-19-71, knowing or having reason to believe that the quantities of radioactive material will be transferred to persons exempt under Subsection R313-19-13(2)(b) or equivalent regulations of a Licensing State, the U.S. Nuclear Regulatory Commission or an Agreement State, except in accordance with a

NOTICES OF PROPOSED RULES

specific license issued by the U.S. Nuclear Regulatory Commission, pursuant to 10 CFR Part 32 or by the ~~[D]~~director pursuant to Subsection R313-22-75(2), which license states that the radioactive material may be transferred by the licensee to persons exempt under Subsection R313-19-13(2)(b) or the equivalent regulations of a Licensing State, the U.S. Nuclear Regulatory Commission or an Agreement State.

(iv) A person who possesses radioactive material received or acquired ~~[prior to]~~before September 25, 1971, under the general license formerly provided in 10 CFR Part 31.4 or equivalent regulations of a ~~[S]~~state is exempt from the requirements for a license set forth in Rule R313-19 to the extent that the person possesses, uses, transfers or owns radioactive material. This exemption does not apply for diffuse sources of radium-226.

(v) No person may, for purposes of producing an increased radiation level, combine quantities of radioactive material covered by this exemption so that the aggregate quantity exceeds the limits set forth in Section R313-19-71, except for radioactive material combined within a device placed in use before May 3, 1999, or as otherwise provided by ~~[these rules]~~Title R313.

(c) Exempt items.

(i) Certain items containing radioactive material. Except for persons who apply radioactive material to, or persons who incorporate radioactive material into the following products, a person is exempt from ~~[these rules]~~Title R313 to the extent that person receives, possesses, uses, transfers, owns or acquires the following products:

(A) Timepieces or hands or dials containing not more than the following specified quantities of radioactive material and not exceeding the following specified levels of radiation:

(I) 25 millicuries, $[\{925.0 \text{ MBq}\}]_2$ of tritium per timepiece;

(II) five millicuries, $[\{185.0 \text{ MBq}\}]_2$ of tritium per hand;

(III) 15 millicuries, $[\{555.0 \text{ MBq}\}]_2$ of tritium per dial. Bezels ~~[when]~~if used shall be considered as part of the dial;

(IV) 100 microcuries, $[\{3.7 \text{ MBq}\}]_2$ of promethium-147 per watch or 200 microcuries, $[\{7.4 \text{ MBq}\}]_2$ of promethium-147 per any other timepiece;

(V) 20 microcuries, $[\{0.74 \text{ MBq}\}]_2$ of promethium-147 per watch hand or 40 microcuries, $[\{1.48 \text{ MBq}\}]_2$ of promethium-147 per other timepiece hand;

(VI) 60 microcuries, $[\{2.22 \text{ MBq}\}]_2$ of promethium-147 per watch dial or 120 microcuries, $[\{4.44 \text{ MBq}\}]_2$ of promethium-147 per other timepiece dial. Bezels ~~[when]~~if used shall be considered as part of the dial;

(VII) for wrist watches the radiation dose rate from hands and dials containing promethium-147 will not exceed, ~~[when]~~if measured through 50 milligrams per square centimeter of absorber, ~~_____~~for wrist watches, 0.1 millirad, $[\{1.0 \text{ uGy}\}]_2$ per hour at ten centimeters from any surface;

(VIII) for pocket watches, the radiation dose rate from hands and dials containing promethium-147 will not exceed, if measured through 50 milligrams per square centimeter of absorber, 0.1 millirad, $[\{1.0 \text{ uGy}\}]_2$ per hour at one centimeter from any surface;

(IX) for other timepieces, the radiation dose rate from hands and dials containing promethium-147 will not exceed, if measured through 50 milligrams per square centimeter of absorber, 0.2 millirad, $[\{2.0 \text{ uGy}\}]_2$ per hour at ten centimeters from any surface; and

~~[(VIII)]~~ one microcurie, $[\{37.0 \text{ kBq}\}]_2$ of radium-226 per timepiece in timepieces manufactured ~~[prior to]~~before November 30, 2007.

(B)(I) Static elimination devices ~~[which]~~that contain, as sealed source or sources, radioactive material consisting of a total of not more than 18.5 MBq, $[\{500 \text{ uCi}\}]_2$ of polonium-210 per device.

(II) Ion generating tubes designed for ionization of air that contain, as a sealed source or sources, byproduct material consisting of a total of not more than 18.5 MBq, $[\{500 \text{ uCi}\}]_2$ of polonium-210 per device or of a total of not more than 1.85 GBq, $[\{50 \text{ mCi}\}]_2$ of hydrogen-3, $[\{\text{tritium}\}]_2$ per device.

(III) ~~[Such as]~~Devices authorized before October 23, 2012 for use under the general license then provided in 10 CFR 31.3 (January 1, 2012) or equivalent regulations of the Commission or an Agreement State and manufactured, tested, and labeled by the manufacturer in accordance with the specifications contained in a specific license issued by the Commission or Agreement State.

(C) Precision balances containing not more than one millicurie, $[\{37.0 \text{ MBq}\}]_2$ of tritium per balance or not more than 0.5 millicurie, $[\{18.5 \text{ MBq}\}]_2$ of tritium per balance part manufactured before June 9, 2010.

(D) Marine compasses containing not more than 750 millicuries, $[\{27.8 \text{ GBq}\}]_2$ of tritium gas and other marine navigational instruments containing not more than 250 millicuries, $[\{9.25 \text{ GBq}\}]_2$ of tritium gas manufactured before June 9, 2010.

(E) Ionization chamber smoke detectors containing not more than 1 microcurie, $[\{37 \text{ kBq}\}]_2$ of americium-241 per detector in the form of a foil and designed to protect life and property from fires.

(F) Electron tubes, including spark gap tubes, power tubes, gas tubes including glow lamps, receiving tubes, microwave tubes, indicator tubes, pick-up tubes, radiation detection tubes, and other completely sealed tubes that are designed to conduct or control electrical currents~~;~~ provided that ~~[each tube does]~~do not contain more than one of the following specified quantities of radioactive material and the radiation dose rate from each electron tube containing radioactive material may not exceed one milli-rad, 10.0 uGy, per hour at one centimeter from any surface if measured through seven milligrams per square centimeter of absorber:

(I) 150 millicuries, $[\{5.55 \text{ GBq}\}]_2$ of tritium per microwave receiver protector tube or ten millicuries, $[\{370.0 \text{ MBq}\}]_2$ of tritium per any other electron tube;

(II) one microcurie, $[\{37.0 \text{ kBq}\}]_2$ of cobalt-60;

(III) five microcuries, $[\{185.0 \text{ kBq}\}]_2$ of nickel-63;

(IV) 30 microcuries, $[\{1.11 \text{ MBq}\}]_2$ of krypton-85;

(V) five microcuries, $[\{185.0 \text{ kBq}\}]_2$ of cesium-137;

(VI) 30 microcuries, $[\{1.11 \text{ MBq}\}]_2$ of promethium-147;

(VII) one microcurie, $[\{37.0 \text{ kBq}\}]_2$ of radium-226; ~~_____ and provided further, that the radiation dose rate from each electron tube containing radioactive material will not exceed one millirad (10.0 uGy) per hour at one centimeter from any surface when measured through seven milligrams per square centimeter of absorber].~~

(G) Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, one or more sources of radioactive material, ~~[provided that]~~if:

(I) each source contains no more than one exempt quantity set forth in Section R313-19-71; and

(II) each instrument contains no more than ten exempt quantities. For purposes of this requirement, an instrument's source~~[s]~~ may contain either one type or different types of radionuclides and an individual exempt quantity may be composed

of fractional parts of one or more of exempt quantities in Section R313-19-71, ~~[provided that]~~ the sum of the fractions ~~[shall]~~may not exceed unity~~;~~.

(III) ~~[F]~~[E]For purposes of Subsection R313-19-13(2)(c)(i)(G), 0.05 microcurie, ~~[1.85 kBq]~~, of americium-241 is considered an exempt quantity under Section R313-19-71.

(ii) Self-luminous products containing radioactive material.

(A) Except for persons who manufacture, process, produce, or initially transfer for sale or distribution self-luminous products containing tritium, krypton-85, or promethium-147, and except as provided in Subsection R313-19-13(2)(c)(ii)(C), any person is exempt from the ~~[regulations]~~rules in Rules R313-15, R313-19, R313-21, R313-22, R313-32, R313-34, R313-36, and R313-38 to the extent that ~~[such]~~a person receives, possesses, uses, transfers, owns, or acquires tritium, krypton-85, or promethium-147 in self-luminous products manufactured, processed, produced, or initially transferred in accordance with a specific license issued pursuant to 10 CFR 32.22 (2015), which license authorizes the initial transfer of the product for use.

(B) Any person who desires to manufacture, process, or produce, or initially transfer for sale or distribution self-luminous products containing tritium, krypton-85, or promethium-147 for use under Subsection R313-19-13(2)(c)(ii)(A), should apply for a license under 10 CFR 32.22 (2015) and for a certificate of registration in accordance with 10 CFR 32.210 (2015).

(C) The exemption in Subsection R313-19-13(2)(c)(ii)(A) does not apply to tritium, krypton-85, or promethium-147 used in products primarily for frivolous purposes or in toys or adornments.

(D) Radium-226. A person is exempt from ~~[these rules]~~Title R313, to the extent that ~~[such]~~a person receives, possesses, uses, transfers, or owns articles containing less than 0.1 microcurie, ~~[3.7 kBq]~~, of radium-226 ~~[which]~~that were acquired ~~[prior to]~~before the effective date of ~~[these rules]~~Title R313.

(iii) Gas and aerosol detectors containing radioactive material.

(A) Except for persons who manufacture, process, produce, or initially transfer for sale or distribution gas and aerosol detectors containing radioactive material, any person is exempt from the ~~[regulations]~~rules in ~~[parts]~~Rules R313-18, R313-15, R313-19, R313-21, R313-22, R313-32, R313-34, R313-36, and R313-38 to the extent that ~~[such]~~a person receives, possesses, uses, transfers, owns, or acquires byproduct material in gas and aerosol detectors designed to protect health, safety, or property, and manufactured, processed, produced, or initially transferred in accordance with a specific license issued under 10 CFR 32.26 (2015), which license authorizes the initial transfer of the product for use under this section. This exemption also covers gas and aerosol detectors manufactured or distributed before November 30, 2007, in accordance with a specific license issued by a ~~[S]~~[S]state under comparable provisions to 10 CFR 32.26 (2015) authorizing distribution to persons exempt from regulatory requirements.

(B) Any person who desires to manufacture, process, or produce gas and aerosol detectors containing byproduct material, or to initially transfer ~~[such]~~the products for use under Subsection R313-19-13~~[paragraph]~~(a)~~[of this section]~~, should apply for a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to 10 CFR Part 32.26 (2015) and for a certificate of registration in accordance with Section R313-22-210 or equivalent regulations of an Agreement State.

(iv) Capsules containing carbon-14 urea for "in vivo" diagnostic use for humans.

(A) Except as provided in Subsection R313-19-13(2)(c)(iv)(B), any person is exempt from the requirements in Rules R313-19 and R313-32 ~~[provided]~~if that ~~[the]~~person receives, possesses, uses, transfers, owns, or acquires capsules containing 37 kBq, ~~[1 uCi]~~, carbon-14 urea, ~~[allowing for nominal variation that may occur during the manufacturing process]~~, each, for "in vivo" diagnostic use for humans.

(B) Any person who desires to use the capsules for research involving human subjects shall apply for and receive a specific license pursuant to Rule R313-32.

(C) Nothing in Subsection R313-19-13(2)(c)(iv) relieves persons from complying with applicable United States Food and Drug Administration, other ~~[F]~~[F]federal, and ~~[S]~~[S]state requirements governing receipt, administration, and use of drugs.

(v) Certain industrial devices.

(A) Except for persons who manufacture, process, produce, or initially transfer for sale or distribution industrial devices containing radioactive material designed and manufactured for ~~[the purpose of]~~ detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing an ionized atmosphere, any person is exempt from the ~~[regulations]~~rules in ~~[parts]~~Rules [R313-18, R313-15,]R313-18, R313-15, R313-19, R313-21, R313-22, R313-32, R313-34, R313-36, and R313-38 to the extent that ~~[such]~~a person receives, possesses, uses, transfers, owns, or acquires radioactive material, in these certain detecting, measuring, gauging, or controlling devices and certain devices for producing an ionized atmosphere, and manufactured, processed, produced, or initially transferred in accordance with a specific license issued under 10 CFR 32.30 (2015), which license authorizes the initial transfer of the device for use under this rule. This exemption does not cover sources not incorporated into a device, such as calibration and reference sources.

(B) Any person who desires to manufacture, process, produce, or initially transfer for sale or distribution industrial devices containing byproduct material for use under Subsection R313-19-13(2)(c)(v)(A), should apply for a license under 10 CFR 32.30 (2015) and for a certificate of registration in accordance with Section R313-22-210.

(vi) With respect to Subsections R313-19-13(2)(b)(iii), R313-19-13(2)(c)(i), R313-19-13(2)(c)(iii) and R313-19-13(2)(c)(iv), the authority to transfer possession or control by the manufacturer, processor, or producer of equipment, devices, commodities, or other products containing byproduct material whose subsequent possession, use, transfer, and disposal by other persons is exempted from regulatory requirements may be ~~[obtained]~~received only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

KEY: licenses, reciprocity, transportation, exemptions

Date of Last Change: 2024~~[November 14, 2022]~~

Notice of Continuation: April 8, 2021

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

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R313-21-21	Filing ID: 56175

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Radiation	
Room number:	Second Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	385-454-5574	tball@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R313-21-21. General Licenses--Source Material
3. Purpose of the new rule or reason for the change:
The purpose of this amendment is to incorporate changes requested by the Nuclear Regulatory Commission (NRC) to ensure compatibility of Utah rules with the federal regulations. Additionally, the Division of Waste Management and Radiation Control, Radiation (Division) is correcting formatting and typographical errors that have been discovered in this rule.
4. Summary of the new rule or change:
The NRC commented that references to certain Part 40 requirements were missing from the list of 10 CFR 40 parts that are incorporated by reference in Subsection R313-21-21(2)(c). The list of parts of 10 CFR 40 that are incorporated by reference in this subsection has been updated in accordance with the NRC comment.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated cost or savings to the state budget due to this amendment because it does not add any new or change any existing requirements.

B) Local governments:			
There is no anticipated cost or savings to local governments due to this amendment because it does not add any new or change any existing requirements.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
There is no anticipated cost or savings to small businesses due to this amendment because it does not add any new or change any existing requirements.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
There is no anticipated cost or savings to non-small businesses due to this amendment because it does not add any new or change any existing 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 <i>agency</i>):			
There is no anticipated cost or savings to persons other than small businesses, non-small businesses, state, or local government entities due to this amendment because it does not add any new or change any existing requirements.			
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):			
There are no compliance costs for affected persons due to this amendment because it does not add any new or change any existing 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	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0

Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:
 The Executive Director of the Department of Environmental Quality, Kimberly 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	
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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:

Official Title of Materials Incorporated (from title page)	Title 10 -- Energy, Chapter I -- Nuclear Regulatory Commission, Part 40 -- Domestic Licensing of Source Material
Publisher	Office of the Federal Register National Archives and Records Administration
Issue Date	November 7, 2023

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	01/03/2024
9. This rule change MAY become effective on:	01/15/2024

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	Date:	11/09/2023
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R313. Environmental Quality, Waste Management and Radiation Control, Radiation.

R313-21. General Licenses.

R313-21-21. General Licenses--Source Material.

(1) A general license is ~~hereby~~ issued authorizing commercial and industrial firms, research, educational and medical institutions, and state and local government agencies to receive, possess, use and transfer uranium and thorium, in their natural isotopic concentrations and in the form of depleted uranium, for research, development, educational, commercial, or operational purposes in the following forms and quantities:

(a) No more than 1.5 kg, [~~3.3 lb~~], of uranium and thorium in dispersible forms, for example, gaseous, liquid, or powder, ~~etc.~~ at any one time. Any material processed by the general licensee that alters the chemical or physical form of the material containing source material ~~must~~ shall be accounted for as a dispersible form. A person authorized to possess, use, and transfer source material under Subsection R313-21-21(1) may not receive more than a total of ~~seven~~ kg, [~~15.4 lb~~], of uranium and thorium in any one calendar year. A person possessing source material ~~in excess of~~ over these limits as of October 16, 2017, may continue to possess up to ~~seven~~ kg, [~~15.4 lb~~], of uranium and thorium at any one time for one year beyond this date, or until the ~~Director~~ director takes final action on a pending application submitted on or before October 16, 2017, for a specific license for this material; and receive up to 70 kg, [~~154 lb~~], of uranium or thorium in any one calendar year until December 31, 2018, or until the ~~Director~~ director takes final action on a pending application submitted on or before October 16, 2018, for a specific license for this material; and

(b) No more than a total of ~~seven~~ kg, [~~15.4 lb~~], of uranium and thorium at any one time. A person authorized to possess, use, and transfer source material under Subsection R313-21-21(1) may not receive more than a total of 70 kg, [~~154 lb~~], of uranium and thorium in any one calendar year. A person may not alter the chemical or physical form of the source material possessed under Subsection R313-21-21(1) unless it is accounted for under the limits of Subsection R313-21-21(1)(a); or

(c) No more than ~~seven~~ kg, [~~15.4 lb~~], of uranium, removed during the treatment of drinking water, at any one time. A person may not remove more than 70 kg, [~~154 lb~~], of uranium from drinking water during a calendar year under Subsection R313-21-21(1)(a); or

(d) No more than ~~seven~~ kg, [~~15.4 lb~~], of uranium and thorium at laboratories ~~to determine~~ [for the purpose of determining] the concentration of uranium and thorium contained within the material being analyzed at any one time. A person authorized to possess, use, and transfer source material under Subsection R313-21-21(1) may not receive more than a total of 70 kg, [~~154 lb~~], of source material in any one calendar year.

(2) Any person who receives, possesses, uses, or transfers source material pursuant to the general license issued in Subsection R313-21-21(1):

(a) Is prohibited from administering source material, or the radiation therefrom, either externally or internally, to human beings except as may be authorized by the [D]director in a specific license.

(b) ~~Shall~~ May not abandon this source material. Source material may be disposed of as follows:

(i) A cumulative total of 0.5 kg, [~~1.1 lb~~], of source material in a solid, non-dispersible form may be transferred each calendar year, by a person authorized to receive, possess, use, and transfer source material under this general license to a person[s] receiving the material for permanent disposal. The recipient of source material transferred under ~~the provisions of~~ Subsection R313-21-21(2) is exempt from the requirements to ~~obtain~~ get a license under Rule R313-22 to the extent the source material is permanently disposed. This provision does not apply to any person who is in possession of source material under a specific license issued under Rules R313-19, and R313-22; or

(ii) In accordance with Section R313-15-1001.

(c) Is subject to ~~the provisions in~~ 10 CFR 40.2a] through 10 CFR 40.4]10, 10 CFR 40.41(~~e~~a) through 10 CFR 40.41(e), 10 CFR 40.46, 10 CFR 40.46, 10 CFR 40.51, 10 CFR 40.56, 10 CFR 40.60 through 10 CFR 40.63, 10 CFR 40.71 and 10 CFR 40.61(a) and (b)]8], which are incorporated by reference in Section R313-24-4, Section R313-12-3, Section R313-19-5, Section R313-19-34, Subsection R313-22-34(2), Section R313-19-41, Section R313-19-50, Section R313-15-1111, Sections R313-12-51 through R313-12-53, Section R313-19-61, and Rule R313-14, ~~10 CFR 40.41(d), 10 CFR 40.41(e)(1) and (e)(3), 10 CFR 40.51(b)(6), and 10 CFR 40.56~~.

(d) Shall respond to written requests from the [D]director to provide information relating to the general license within 30 calendar days of the date of the request, or other time specified in the request. If the person cannot provide the requested information within the allotted time, the person shall, within that ~~same~~ time period, request a longer period to supply the information by providing the [D]director a written justification using the method stated in Section R313-12-110.

(e) ~~Shall~~ May not export ~~such~~ the source material except in accordance with 10 CFR Part 110 (2017).

(3) Any person who receives, possesses, uses, or transfers source material in accordance with Subsection R313-21-21(1) shall conduct activities so as to minimize contamination of the facility and the environment. When activities involving ~~such~~ the source material are permanently ~~ceased~~ stopped at any site, if evidence of significant contamination is identified, the general licensee shall notify the [D]director using the method stated in Section R313-12-110 about ~~such~~ the contamination and may consult with the [D]director as to the appropriateness of sampling and restoration activities to ensure that any contamination or residual source material remaining at the site where source material was used under this general license is not likely to result in exposures that exceed the limits in Section R313-15-402.

(4) Any person who receives, possesses, uses, or transfers source material in accordance with the general license granted in Subsection R313-21-21(1) is exempt from ~~the provisions of~~ Rules R313-15 and R313-18 to the extent that ~~such~~ the receipt, possession, use, and transfer are within the terms of this general license, except that ~~such~~ the person shall comply with ~~the provisions of~~ Sections R313-15-402 and R313-15-1001 to the extent necessary to ~~meet the provisions of~~ comply with Subsections R313-21-21(2)(b) and R313-21-21(3). However, this exemption does not apply to any person who also holds a specific license issued under Rules R313-19 and R313-22.

(5) No person may initially transfer or distribute source material to a person[s] generally licensed under Subsection R313-21-21(1)(a) or R313-21-21(1)(b), or paragraphs (a)(1) or (a)(2) of 10 CFR 40.22 for a non-Agreement State, or equivalent regulations of an Agreement State, unless authorized by a specific license issued in accordance with ~~Sub~~Section R313-22-54 or 10 CFR 40.54 for a non-Agreement State or equivalent provisions of an Agreement State. This prohibition does not apply to analytical laboratories returning processed samples to the client who initially provided the sample. Initial distribution of source material to a person[s] generally licensed by Subsection R313-21-21(1) before October 16, 2017, without specific authorization may continue for one year beyond this date. Distribution may also be continued until the [D]director takes final action on a pending application for license or license amendment to specifically authorize distribution submitted on or before October 16, 2018.

(6) A general license is ~~hereby~~ issued authorizing the receipt of title to source material without regard to quantity. This general license does not authorize a person to receive, possess, deliver, use, or transfer source material.

(7) Depleted uranium in industrial products and devices.

(a) A general license is ~~hereby~~ issued to receive, acquire, possess, use, or transfer, in accordance with ~~the provisions of~~ Subsections R313-21-21(7)(b), R313-21-21(7)(c), R313-21-21(7)(d), and R313-21-21(7)(e), depleted uranium contained in industrial products or devices ~~for the purpose of providing~~ to provide a concentrated mass in a small volume of the product or device.

(b) The general license in Subsection R313-21-21(7)(a) applies only to industrial products or devices ~~which~~ that have been manufactured or initially transferred, either in accordance with a specific license issued to the manufacturer of the products or devices pursuant to Subsection R313-22-75(11) or in accordance with a specific license issued to the manufacturer by the Nuclear Regulatory Commission, an Agreement State, or a Licensing State ~~which~~ that authorizes manufacture of the products or devices for distribution to a person[s] generally licensed by the Nuclear Regulatory Commission, an Agreement State, or a Licensing State.

(c)(i) A person ~~Persons~~ who receives, acquires, possesses, or uses depleted uranium pursuant to the general license established by Subsection R313-21-21(7)(a) shall file form DWMRC-12 "Registration Form-Use of Depleted Uranium Under General License," with the [D]director. The form shall be submitted within 30 days after the first receipt or acquisition of depleted uranium. The registrant shall furnish on form DWMRC-12 the following information and other information as may be required by that form:

(A) name and address of the registrant;

(B) a statement that the registrant has developed and will maintain procedures designed to establish physical control over the depleted uranium described in Subsection R313-21-21(7)(a) and designed to prevent transfer of ~~such~~ the depleted uranium in any form, including metal scrap, to a person[s] not authorized to receive the depleted uranium; and

(C) name and title, address, and telephone number of the individual ~~du~~ authorized to act for and on behalf of the registrant in supervising the procedures identified in Subsection R313-21-21(7)(c)(i)(B).

(ii) The registrant possessing or using depleted uranium under the general license established by Subsection R313-21-21(7)(a) shall report in writing to the [D]director any changes in information previously furnished on form DWMRC-12 "Registration Form - Use of Depleted Uranium Under General License." The

report shall be submitted within 30 days after the effective date of the change.

(d) A person who receives, acquires, possesses, or uses depleted uranium pursuant to the general license established by Subsection R313-21-21(5)(a):

(i) ~~shall~~ may not introduce depleted uranium, in any form, into a chemical, physical, or metallurgical treatment or process, except a treatment or process for repair or restoration of any plating or other covering of the depleted uranium;

(ii) ~~shall~~ may not abandon depleted uranium;

(iii) shall transfer or dispose of depleted uranium only by transfer in accordance with ~~[the provisions of]~~ Section R313-19-41. In the case where the transferee receives the depleted uranium pursuant to the general license established by Subsection R313-21-21(7)(a), the transferor shall furnish the transferee a copy of Rule R313-21 and a copy of form DWMRC-12. In the case where the transferee receives the depleted uranium pursuant to a general license contained in the Nuclear Regulatory Commission's or Agreement State's regulation equivalent to Subsection R313-21-21(7)(a), the transferor shall furnish the transferee a copy of this rule and a copy of form DWMRC-12 accompanied by a note explaining that use of the product or device is regulated by the Nuclear Regulatory Commission or Agreement State under requirements substantially ~~[the same as]~~ equivalent to those in Rule R313-21;

(iv) within 30 days of any transfer, shall report in writing to the ~~[D]~~ director the name and address of the person receiving the depleted uranium pursuant to the transfer;

(v) ~~shall~~ may not export depleted uranium except in accordance with a license issued by the Nuclear Regulatory Commission pursuant to 10 CFR Part 110; and

(vi) shall pay annual fees pursuant to Rule R313-70.

(e) Any person receiving, acquiring, possessing, using, or transferring depleted uranium pursuant to the general license established by Subsection R313-21-21(7)(a) is exempt from the requirements of Rules R313-15 and R313-18 ~~[of these rules]~~ with respect to the depleted uranium covered by that general license.

KEY: radioactive materials, general licenses, source materials
Date of Last Change: 2024|~~October 13, 2017~~
Notice of Continuation: October 19, 2021
Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-6-104

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R313-22-55	Filing ID: 56176

Agency Information

1. Department:	Environmental Quality
Agency:	Waste Management and Radiation Control, Radiation
Room number:	Second Floor
Building:	MASOB
Street address:	195 N 1950 W
City, state and zip:	Salt Lake City, UT 84116

Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	385-454-5574	tball@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R313-22-55. Conditions of Specific Licenses to Initially Transfer Source Material for Use Under Section R313-21-21
3. Purpose of the new rule or reason for the change:
The purpose of this amendment is to incorporate changes requested by the Nuclear Regulatory Commission (NRC) to ensure compatibility of Utah rules with the federal regulations. Additionally, the Division of Waste Management and Radiation Control, Radiation (Division) is correcting formatting and typographical errors that have been discovered in this rule.
4. Summary of the new rule or change:
Reference to equivalent regulations of the NRC has been added to Subsection R313-22-55(1)(c)(i) as requested by the NRC. The NRC commented that to be compatible with the federal regulations Subsection R313-22-55(1)(d)(i) must also require reports to be filed with the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555 for any transfers to non-Agreement States in addition to the Director of the Division of Waste Management and Radiation Control. This has been added to the subsection.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated cost or savings to the state budget due to this amendment because it does not add any new or change any existing requirements.
B) Local governments:
There is no anticipated cost or savings to local governments due to this amendment because it does not add any new or change any existing requirements.

C) Small businesses ("small business" means a business employing 1-49 persons):			
There is no anticipated cost or savings to small businesses due to this amendment because it does not add any new or change any existing requirements.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
There is no anticipated cost or savings to non-small businesses due to this amendment because it does not add any new or change any existing 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 anticipated cost or savings to persons other than small businesses, non-small businesses, state, or local government entities due to this amendment because it does not add any new or change any existing requirements.			
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):			
There are no compliance costs for affected persons due to this amendment because it does not add any new or change any existing 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	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head comments on fiscal impact and approval of regulatory impact analysis:			
The Executive Director of the Department of Environmental Quality, Kimberly 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.)	
A) Comments will be accepted until:	01/03/2024

9. This rule change MAY become effective on:	01/15/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	Date:	11/09/2023
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R313. Environmental Quality, Waste Management and Radiation Control, Radiation.

R313-22. Specific Licenses.

R313-22-55. Conditions of Specific Licenses to Initially Transfer Source Material for Use Under Section R313-21-21.

(1)(a) Each person licensed under Section R313-22-54 shall label the immediate container of each quantity of source material with the type of source material and quantity of material and the words, "radioactive material."

(b) Each person licensed under Section R313-22-54 shall ensure that the quantities and concentrations of source material are as labeled and indicated in any transfer records.

(c) Each person licensed under Section R313-22-54 shall provide the information specified in Subsections R313-22-55(1)(c)(i) and R313-22-55(1)(c)(ii) to each person to whom source material is transferred for use under Section R313-21-21 or 10 CFR 40.22 for non-Agreement States or equivalent provisions in Agreement State regulations. This information ~~must~~ shall be transferred before the source material is transferred for the first time in each calendar year to the particular recipient. The required information includes:

(i) A copy of Sections R313-21-21 and R313-19-41, or relevant equivalent regulations of the NRC or of the Agreement State.

(ii) Appropriate radiation safety precautions and instructions relating to handling, use, storage, and disposal of the material.

(d) Each person licensed under Section R313-22-54 shall report transfers as follows:

(i) File a report with the ~~the~~ director and with the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555 for any transfers to non-Agreement States. The report shall include the following information:

(A) The name, address, and license number of the person who transferred the source material;

(B) For each general licensee under Section R313-21-21 or 10 CFR 40.22 for non-Agreement States or equivalent Agreement State provisions to whom greater than 50 grams, ~~{}~~0.11 pounds~~}~~, of source material has been transferred in a single calendar quarter, the name and address of the general licensee to whom source material is distributed; a responsible agent, by name or position or both and phone number, of the general licensee to whom the material was sent; and the type, physical form, and quantity of source material transferred; and

(C) The total quantity of each type and physical form of source material transferred in the reporting period to any~~all such~~ generally licensed recipients.

(ii) File a report with:

(A) Each responsible Agreement State agency that identifies ~~all persons~~ each person, operating under provisions equivalent to 10 CFR 40.22 (2016), to whom greater than 50 grams, ~~{}~~0.11 pounds~~}~~, of source material has been transferred within a single calendar quarter; or

(B) The U.S. Nuclear Regulatory Commission for non-Agreement States, that identifies ~~all persons~~ each person, operating under 10 CFR 40.22 (2016), to whom greater than 50 grams, ~~{}~~0.11 pounds~~}~~, of source material has been transferred within a single calendar quarter.

(C) The report shall include the following information specific to those transfers made to the Agreement State being reported to:

(I) The name, address, and license number of the person who transferred the source material; and

(II) The name and address of the general licensee to whom source material was distributed; a responsible agent, by name ~~and~~ or position or both and phone number, of the general licensee to whom the material was sent; and the type, physical form, and quantity of source material transferred~~[-]; and~~

(III) The total quantity of each type and physical form of source material transferred in the reporting period to any~~all such~~ generally licensed recipients within the Agreement State or non-Agreement State.

(iii) Submit each report by January 31 of each year covering ~~all~~ any transfers for the previous calendar year. If no transfers were made to a ~~person[s]~~ generally licensed under Section

R313-21-21 or 10 CFR 40.22, or equivalent Agreement State provisions during the current period, a report shall be submitted to the ~~the~~ director indicating so. If no transfers have been made to general licensees in a particular Agreement State or non-Agreement State during the reporting period, this information shall be reported to the responsible Agreement State agency or the U.S. Nuclear Regulatory Commission upon request of the agency or Commission.

(e) Each person licensed under Section R313-22-54 shall maintain ~~all~~ any information that supports the reports required by Section R313-22-55 concerning each transfer to a general licensee for a period of one year after the event is included in a report to the ~~the~~ director.

KEY: specific licenses, decommissioning, broad scope, radioactive materials

Date of Last Change: 2024~~August 9, 2019~~

Notice of Continuation: April 8, 2021

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

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	R315-124	Filing ID: 56178

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Waste Management	
Room number:	2nd Floor	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	385-454-5574	tball@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:
R315-124. Procedures for Decisionmaking
3. Purpose of the new rule or reason for the change:
This rule is being amended to require the Division of Waste Management and Radiation Control, Waste Management (Division) to follow the requirements of Rule R315-124 in addition to the requirements found in Rule R315-311 for

WASTE MANAGEMENT AND RADIATION CONTROL BOARD

Executive Summary

Proposed Stipulation and Consent Order

Tri State Oil Reclaimers, Inc. (UOP-0195)

January 11, 2024

What is the issue before the Board?	This is a proposed Stipulation and Consent Order (SCO) No. 2111118 to resolve Notice of Violation and Compliance Order (NOV/CO) No. 2111115 issued to Tri State Oil Reclaimers, Inc. (TSOR) on May 20, 2022.
What is the historical background or context for this issue?	<p>The NOV/CO was based on findings documented by Division of Waste Management and Radiation Control inspectors regarding used oil storage and processing operations conducted at TSOR's used oil processor facility (West Haven), located at 2400 South 1900 West, West Haven, Utah.</p> <p>The SCO includes a total penalty of \$48,626.00. TSOR will make a cash payment of \$24,313.00 within thirty days of the effective date of the SCO. The remaining penalty amount of \$24,313.00 will be deferred and waived by the Director if TSOR complies with the requirements set forth in paragraph 10.2, the Orders in 10.3, and remains in compliance with all of the provisions of the Act, the Rules, and the State-issued used oil processor permit (UOP 0195), for one year from the effective date of the SCO.</p>
What is the governing statutory or regulatory citation?	§19-6-104 of the Utah Solid and Hazardous Waste Act authorizes the Board to issue orders and approve or disapprove settlements negotiated by the Director with a civil penalty over \$25,000.
Is Board action required?	<p>No, this is an informational item only.</p> <p>The 30-day public comment period will begin on January 8, 2024 and end on February 7, 2024. Following the 30-day public comment period, this matter will be brought before the Board for final action in a future meeting.</p>
What is the Division Director's recommendation?	Not applicable at this time.
Where can more information be obtained?	<p>For technical information, please contact Leonardo Calcagno at (385) 499-0872.</p> <p>For legal information, please contact Elizabeth A. Burns, Assistant Attorney General at (385) 441-4789.</p>

DSHW-2024-002124

Attachments:

Notice of Violation and Compliance Order No. 2111115 (DSHW-2022-004864)

Stipulation and Consent Order No. 2111118 (DSHW-2022-027436)

Penalty Narrative (DSHW-2022-027423)



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

May 20, 2022

Charles Welty, Registered Agent
Tri State Oil Reclaimers, Inc.
1770 Otto Road
Cheyenne, WY 82007

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7004 1160 0005 5671 4089

RE: Notice of Violation No. 2111115
Used Oil Processor Permit (UOP-0195)
UTR000015651

Dear Mr. Welty:

Enclosed is a **NOTICE OF VIOLATION AND COMPLIANCE ORDER (NOV/CO)** Number 2111115, based on findings documented by Division of Waste Management and Radiation Control inspectors regarding used oil storage and processing operations conducted at Tri State Oil Reclaimers, Inc.'s used oil processor facility (West Haven Facility), located at 2400 South 1900 West, West Haven, Utah. Please be advised that compliance with this ORDER is mandatory and will not relieve Tri State Oil Reclaimers, Inc. of liability for past violations.

Within 30 days of the date of this NOV/CO, this ORDER requires you to provide certain information to the Director, including written verification that the violations documented in the NOV have been corrected. Your response to this request will not constitute an administrative contest to the attached NOV. You have 30 days from the date of the attached NOV/CO to contest it in the manner and within the time frame prescribed by R305-7-303, Utah Administrative Code.

If you have any questions, please call Michelle Weis at (801) 536-0256.

Sincerely,

Douglas J. Hansen, Director
Division of Waste Management and Radiation Control

(Over)

DSHW-2022-004864

195 North 1950 West • Salt Lake City, UT
Mailing Address: P.O. Box 144880 • Salt Lake City, UT 84114-4880
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www.deq.utah.gov

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DJH/MAW/al

Enclosure: Notice of Violation and Compliance Order Number 2111115

c: Brian Cowan, Health Officer, Weber-Morgan Health Department
Michela Harris, Deputy Director, Weber-Morgan Health Department
Scott Braeden, Environmental Health Director, Weber-Morgan Health Department
Annette Maxwell, U.S. EPA, Region VIII (ENF-R)
Ashely A. Peck, Partner, Holland & Hart LLP (Email)
Jayci Dinges, HSE Manager, Tri State Oil Reclaimers, Inc. (Email)

---oo0oo---

In the Matter of:

:
: **NOTICE OF VIOLATION/
COMPLIANCE ORDER**

Tri State Oil Reclaimers, Inc.
UOP-0195
UTR000015651

: **No. 2111115**
:
:

---oo0oo---

This **NOTICE OF VIOLATION AND COMPLIANCE ORDER (NOV/CO)** is issued by the Director of the Division of Waste Management and Radiation Control (Director) pursuant to the Utah Used Oil Management Act (the Act), Utah Code § 19-6-701 *et seq.*, the Utah Solid and Hazardous Waste Act, Utah Code §19-6-101, *et seq.*, and § 19-6-113. The Director has authority to issue such NOTICES and ORDERS in accordance with Utah Code § 19-6-705 and § 19-6-721.

FINDINGS

1. Tri State Oil Reclaimers, Inc. ("TSOR") is incorporated in the state of Wyoming and registered to conduct business in the State of Utah (entity 8870599-0143). TSOR is the owner and operator of a used oil processor facility, located at 2400 South 1900 West, West Haven, Utah (West Haven Facility).
2. TSOR operates as a used oil storage and processing operations in the State of Utah pursuant to the provisions of the Act, the Utah Solid and Hazardous Waste Act, Utah Administrative Code (the "Rules"), and a State-issued used oil processor permit (Permit UOP-0195).
3. TSOR is a "person" as defined in Utah Code § 19-1-103(4) and is subject to all applicable provisions of the Act, the Utah Solid and Hazardous Waste Act, the Rules, and the Permit UOP-0195 issued to TSOR asoperator of a used oil processor facility in Utah.
4. On October 20, 2020, the Director issued a Used Oil Processor Permit UOP-195 for the West Haven Facility to operate in the State of Utah.
5. In addition, the Director has issued TSOR another Used Oil Processor Permit UOP-0172 (Genola Facility), a Used Oil Transporter Permit UOP-0135 and a Used Oil Marketer Registration UOR-0137, effective February 2, 2018, October 25, 2013, and March 4, 2014, respectively.
6. On June 24, 2021, authorized representatives (inspectors) of the Director conducted an inspection of TSOR used oil processor operations at 2400 South and 1900 West, West Haven, Utah. Inspectors conducted a subsequent inspection on June 25, 2021, to collect additional information to evaluate the compliance of used oil operations conducted at the facility.
7. Permit Conditions I.F.1, I.F.4, I.F.6, and I.F.7 require that TSOR maintain all used oil records at the facility readily accessible for review by representatives of the Director.
 - 7.1. On June 24, 2021, TSOR failed to provide copies of used oil sampling and associated analytical records, wastewater records, and facility inspection records, required to be maintained at the West Haven Facility by Permit UOP-0195, Condition I.F.4, I.F.6, and I.F.7, respectively.

8. Permit Conditions I.F.3 a and b require TSOR to maintain used oil tank storage records/logs, for each of the facility's used oil storage tanks. TSOR must document in the used oil storage tank logs the operator conducting the operation (signature), date and time of the operation, the volume of used oil placed into or taken out of the tank (including inter-tank transfers) and the halogen concentration of used oil received by the facility.
 - 8.1. TSOR failed to record any of the required information in the used oil tank records for used oil sampling events conducted by operators on March 9, 2021, and on May 19, 2021.
 - 8.2. Following a review of TSOR's employee timesheets and bill of lading (BOL) records dated from October 2020 through June of 2021, inspectors documented that TSOR operators failed to record multiple loads of used oil accepted and shipped from the facility, on the facility's storage tank logs from October 20, 2020 to June 24, 2021.
 - 8.3. Following a review TSOR's employee timesheets and BOL records dated from October 2020 through June of 2021, inspectors documented that TSOR operators failed to record multiple transfers of used oil from tanks where the used oil had a high water content to another tank from October 20, 2020 to June 24, 2021.
9. Permit Condition I.D.3 requires TSOR operators to conduct and document the weekly inspections of the facility's tank farm, secondary containment system, vehicle loading and unloading areas, and the emergency response and safety equipment in accordance with the requirements of Permit UOP-0195, Attachment 2.
 - 9.1. Following a review of the records, inspectors determined that TSOR failed to document or conduct the weekly inspections of the facilities safety equipment, used oil loading and unloading area, used oil storage containers, tanks, and secondary containment systems from November 1, 2020 to July 1, 2021. On June 24, 2021, TSOR's Utah Manager confirmed to the inspectors that TSOR employees did not document any weekly inspections of the West Haven Facility.
10. R315-15-5.5(b) of the Utah Administrative Code (UAC) requires that containers and aboveground storage tanks including their associated pipes and valves used to store used oil at processor facilities shall be in good condition, with no severe rusting, apparent structural defects, and not leaking.
 - 10.1. On June 24, 2021, inspectors documented that TSOR failed to maintain used oil storage tanks and associated pipes and tank valves in good condition as multiple tank valves and piping connections had failed and were leaking used oil.
11. Permit Condition I.F.6.a requires TSOR to record the volume (mass balance) of wastewater (including stormwater), received at or generated at the facility and the proper disposal of the wastewater. These records shall be maintained in the operations record at this facility until final closure of the facility.
 - 11.1. On June 24, 2021, inspectors documented that TSOR failed to maintain records of wastewater and stormwater generated at the facility and documentation of the proper disposal of the wastewater from October 20, 2020 to July 1, 2021.
12. Permit Condition I.E.1 requires that in the event of a release of used oil, TSOR operators shall immediately take appropriate actions to clean up releases of used oil.
 - 12.1. On June 24, 2021, inspectors documented that TSOR failed to immediately clean up used oil in the secondary containment system that had leaked from the facility's storage tanks and that had been spilled by drivers when loading and unloading used oil at the facility.
13. Permit Conditions II.F.1 through II.F.5 prohibit TSOR employees from managing used oil without a trained employee present until their used oil training is completed. After the initial used oil training

the employees are then required to complete an annual used oil refresher training course thereafter. Based on a review of TSOR's records, inspectors documented that:

- 13.1. TSOR failed to provide initial used oil training to six employees, and annual refresher training to five employees in year 2020.
- 13.2. TSOR failed to provide initial used oil training to six employees conducting used oil operations and annual refresher training to four employees from January 1, 2021 through August 29, 2021.
14. Permit Condition I.I.1 requires that TSOR document and maintain records showing proper characterization, handling, and disposal of wastes generated at the facility.
 - 14.1. On June 24, 2021, inspectors documented that TSOR failed to document and maintain records showing proper characterization, handling, and disposal of wastes generated at the facility from October 20, 2020 through July 1, 2021.
15. Permit Condition I.N.1 and R315-15-13.5(d) UAC require used oil processor facilities to submit an annual report to the Director of its activities during the calendar year. The annual report shall be submitted to the Director no later than March 1 of the year following the reported activities.
 - 15.1. TSOR failed to submit a Used Oil Processor Annual Report for their West Haven Facility for operating year 2020 as required by R315-15-13.5(d) UAC.
16. Utah Code § 19-6-113(3)(c) states: "No person shall knowingly omit material information or make any false material statement or representation in any application, label, manifest, record, report, permit, operation plan, or other document filed, maintained, or used for purposes of compliance with this part or RCRA."
 - 16.1. On June 24, 2021, TSOR's Utah Manager stated to inspectors that after the Division requested the West Haven Facility tank logs in April of 2021, he had "reconstructed" the tank records as employees had not filled out the tank logs, as required.

DETERMINATION OF VIOLATIONS

In accordance with Utah Code § 19-6-701, et seq., and based on the foregoing FINDINGS, Tri State Oil Reclaimers, Inc. has violated provisions of the Rules, the Act, the Utah Solid and Hazardous Waste Act, and the Processor Permit applicable to its facility. Specifically, Tri State Oil Reclaimers, Inc. has violated the following:

1. Permit Condition I.F.2 by failing to have used oil records readily accessible for review by representatives of the Director (*See Finding 7*).
2. Permit Condition I.H.1 by failing to record the required information in tank logs for several sampling events, multiple loads of used oil received or shipped from the facility, and transfer of used oil between facility tanks (*See Finding 8*).
3. Permit Conditions I.D.3 and I.D.4 by failing to conduct and document weekly inspections of the facility's safety equipment, used oil storage containers and tanks, and the secondary containment system (*See Finding 9*).
4. R315-15-5.5.(b) UAC by failing to maintain used oil storage tanks and their associated pipes and valves in good condition (*See Finding 10*).
5. Permit Condition I.F.6.a by failing to maintain records of wastewater (includes stormwater) received at or generated at the facility and the proper disposal of this wastewater (*See Finding 11*).

6. Permit Condition I.E.1 by failing to immediately clean up releases of used oil at the facility (*See Finding 12*).
7. Permit Conditions II.F.1 through II.F.5 by failing to train employees conducting used oil operations at the West Haven Facility as required by the Permit (*See Finding 13*).
8. Permit Condition I.I.1 by failing to document and maintain records showing proper characterization, handling, and disposal of wastes generated at the facility (*See Finding 14*).
9. R315-15-5(d) UAC by failing to submit a Used Oil Processor Annual Report for operating year 2020 (*See Finding 15*).
10. Utah Code § 19- 6-113(3)(c) by knowingly making false material statements and representations on facility tank logs in 2021 (*See Finding 16*).

ORDER

TSOR is hereby Ordered to correct all of the violations cited in this NOV/CO. Correction of these violations is mandatory. TSOR shall:

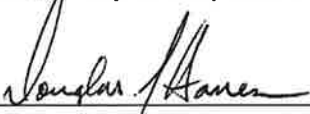
1. Immediately cease and desist making false material statements and false records, reports, and other documents filed, maintained, or used for purposes of compliance with the Permit, and R315-15 UAC.
2. Within 30 days of the date of issuance of this NOV/CO:
 - a. Submit a Used Oil Processor Annual Report for operating year 2020, for the West Haven Facility that has all the information required by Permit Condition I.N.1 and R315-15-13.5(d) UAC.
 - b. Submit documentation to the Director that: 1) each of the West Haven Facility's used oil storage tanks and associated piping and tank valves have been inspected; 2) and documentation that any leaking valves, documented by the inspectors on June 24, 2021, or any other leaking valves or tanks discovered after inspection by TSOR have been properly repaired by a qualified person.
 - c. Provide documentation that all releases of used oil in the facility's secondary containment area have been cleaned up.
 - d. TSOR shall provide the Director with the following information and analyses to assure future compliance with TSOR's Permit, the Rules, Utah Code § 19-6-701 and § 19-6-113, *et seq.*:
 - i. The root cause of why each of these violations occurred;
 - ii. the specific corrective actions planned or taken by TSOR, and the results achieved or expected in the future;
 - iii. the date(s) that each of the violations were resolved or shall be resolved, as applicable; and
 - iv. how these corrective actions shall prevent similar violations from recurring.

OPPORTUNITY FOR HEARING

This NOTICE OF VIOLATION AND COMPLIANCE ORDER is effective immediately and shall become final unless Tri State Oil Reclaimers, Inc. administratively contests it. Failure to contest this NOTICE OF VIOLATION AND COMPLIANCE ORDER in the manner and within the time period prescribed by Utah Admin. Code R305-7-303 constitutes a waiver of any right of administrative contest, reconsideration, review, or judicial appeal.

Utah Code Section 19-6-721 provides that violation of any order, plan, rule, or other requirement issued or adopted under Title 19, Ch. 6, Pt. 7 may be subject to a civil penalty of up to \$10,000 per day foreach day of violation.

Dated this 20th day of May 2022

By: 
Douglas J. Hansen, Director
Division of Waste Management and Radiation Control

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I mailed a true and correct copy of the foregoing NOTICE OF VIOLATION AND COMPLIANCE ORDER on the 20th day of May, 2022 by US Certified Mail, Return receipt Requested, to:

Charles Welty, Registered Agent
Tri State Oil Reclaimers, Inc.
1770 Otto Road
Cheyenne, WY 82007

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

7004 1160 0005 5671 4089



Arlene Lovato, Office Manager

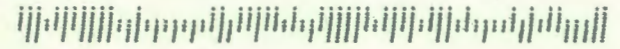
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• Sender: Please print your name, address, and ZIP+4 in this box •

DIVISION OF WASTE MANAGEMENT
AND RADIATION CONTROL
PO BOX 144880
SALT LAKE CITY UT 84114-4880



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Charles Welty, Registered Agent
 Tri State Oil Reclaimers, Inc.
 1770 Otto Road
 Cheyenne, WY 82007

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee

X Charles Welty

B. Received by (Printed Name) C. Date of Delivery
 5/26

D. Is delivery address different from item 1? Yes
 No
 If YES, enter delivery address below:

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number 7004 1160 0005 5671 4089 DSHW-2022-004864 al
 (Transfer from serial)

PROPOSED – SETTLEMENT NEGOTIATIONS

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In the Matter of:

Tri State Oil Reclaimers, Inc.
Notice of Violation and Compliance Order
(NOV/CO) No. 2111115
UOP-0195
UTR000015651

:
:
:
:

STIPULATION AND CONSENT ORDER
No. 2111118

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This **STIPULATION AND CONSENT ORDER** (CONSENT ORDER) is issued by the Director of the Utah Division of Waste Management and Radiation Control pursuant to the Utah Administrative Code R315-15 (the Rules), Utah Used Oil Management Act (the Act), Utah Code § 19-6-701, *et seq.*, and the Utah Solid and Hazardous Waste Act, Utah Code § 19-6-101, *et seq.*

JURISDICTION

1. The Director has jurisdiction over the subject matter of this CONSENT ORDER pursuant to Utah Code §§ 19-6-705(2)(c), 19-6-721, 19-6-107, and 19-6-112 and jurisdiction over Tri State Oil Reclaimers, Inc. Tri State Oil Reclaimers, Inc. consents to and will not challenge the issuance of this CONSENT ORDER or the Director’s jurisdiction to enter and enforce this CONSENT ORDER. Tri State Oil Reclaimers, Inc. and the Director are the parties to this agreement.
2. The Utah Waste Management and Radiation Control Board has authority to review and approve or disapprove this CONSENT ORDER pursuant to Utah Code § 19-6-104(1)(e).

FINDINGS

3. Tri State Oil Reclaimers, Inc. (TSOR) is incorporated in the State of Wyoming and registered to conduct business in the State of Utah (Entity 8870599-0143). TSOR is the owner and operator of a used oil processor facility located in Weber County, at 2400 South 1900 West, West Haven, Utah (West Haven Facility).
4. TSOR operates as a used oil processor in the State of Utah under the provisions of the Act, the Utah Solid and Hazardous Waste Act, the Rules, and a State-issued used oil processor permit (Permit UOP-0195).
5. TSOR is a “person” as defined in Utah Code § 19-1-103(4) and is subject to all applicable provisions of the Act, the Utah Solid and Hazardous Waste Act, the Rules, and Permit UOP-0195 issued to TSOR as operator of a used oil processor facility in Utah.
6. Based on findings determined during inspections of the West Haven Facility on June 24, 2021, and June 25, 2021, and additional review of records, the Director issued Notice of Violation and Compliance Order (NOV/CO) No. 2111115 on May 20, 2022, which cited violations of the Act, the Utah Solid and Hazardous Waste Act, the Rules, and Permit UOP-0195.
7. On July 15, 2022, TSOR filed a written response to the NOV/CO.

PROPOSED – SETTLEMENT NEGOTIATIONS

8. In accordance with the Civil Penalty Policy, Utah Admin. Code R315-102, which considers such factors as the gravity of the violation, the extent of deviation from the rules, the potential for harm to human health and the environment, good faith efforts to comply, and other factors, the Director calculated and proposed a penalty based on the violations alleged in the NOV/CO No. 2111115.

STIPULATION AND CONSENT ORDER

9. This CONSENT ORDER has been negotiated in good faith and the parties now wish to fully resolve NOV/CO No. 2111115 without further administrative or judicial proceedings.
10. In full settlement of the violations alleged in NOV/CO No. 2111115, TSOR shall:
- 10.1. Pay a penalty of \$48,626.00 (forty-eight thousand, six-hundred and twenty-six dollars).
 - 10.2. A cash payment of \$24,313.00 (twenty-four thousand, three-hundred and thirteen-dollars) shall be made within thirty days of the effective date of this CONSENT ORDER. Payment shall be made to the Utah Department of Environmental Quality, c/o Douglas J. Hansen, Director, Division of Waste Management and Radiation Control, P.O. Box 144880, Salt Lake City, Utah 84114-4880.
 - 10.2.1. The remaining penalty amount, \$24,313.00 (twenty-four thousand, three-hundred and thirteen-dollars), shall be deferred and waived by the Director if TSOR complies with 10.2, the Orders in 10.3, and remains in compliance with all of the provisions of the Act, the Utah Solid and Hazardous Waste Act, the Rules, and the State-issued West Haven Facility used oil processor permit (Permit UOP 0195), for one year from the effective date of this CONSENT ORDER. For the year, violations that are minor in potential for harm and minor in extent of deviation shall not trigger payment of the deferred penalty amount. These minor violations are still subject to the regular enforcement process, including return to compliance and appropriate penalties.
 - 10.2.2. If the Director determines that TSOR has failed to comply with the requirements of 10.2.1, the Director will provide written notification to TSOR that the deferred payment of \$24,313.00 (twenty-four thousand, three-hundred and thirteen-dollars) has not been waived due to TSOR's failure to comply with the requirements of the CONSENT ORDER.
 - 10.2.3. TSOR shall make a cash payment of \$24,313.00 (twenty-four thousand, three-hundred and thirteen dollars), within 60 days of the date that the Director notifies TSOR of their failure to comply with this CONSENT ORDER. Payment shall be made to the Utah Department of Environmental Quality, c/o Douglas J. Hansen, Director, Division of Waste Management and Radiation Control, P.O. Box 144880, Salt Lake City, Utah 84114-4880.
 - 10.3. The Director hereby Orders TSOR West Haven Facility to:
 - 10.3.1. Submit the Used Oil Processor Annual Report for its West Haven Facility for operating year 2022, and an updated Used Oil Processor Annual Report for its West Haven Facility for operating years 2021 and 2020, within sixty days of the effective date of this CONSENT ORDER. To the extent that TSOR records are not available, the Reports may include written explanations of why the Reports are incomplete or otherwise deficient.

PROPOSED – SETTLEMENT NEGOTIATIONS

- 10.3.2. On or before the 15th day of each month, until the one-year anniversary of the effective date of this CONSENT ORDER, a corporate officer of Tri State Oil Reclaimers, Inc. shall submit a statement to the Director certifying that for the preceding month:
- 10.3.2.1. TSOR has recorded and maintained a used oil tank storage log sheet specified in Attachment 9 of the West Haven Permit, for each of the tanks listed in Table II.C, as required by Permit Conditions I.F.3.a and b. Tank log sheets shall document the operator conducting the operation (via signature), date and time of the operation, the volume of used oil placed into or taken out of the tank (including inter-tank transfers), the destination of the used oil shipped from the facility, and the halogen concentration of used oil received by the facility. In addition, tank records shall document tank sampling events, which includes the date sampled, samplers' initials, facility sample identification, laboratory sample identification number, and whether the used oil sample met the specification requirements of the Rules.
 - 10.3.2.2. TSOR has: (1) inspected each container and tank containing used oil, the secondary containment system, and the facilities emergency equipment in accordance with Attachment 2 of the Permit, at least weekly and (2) for each inspection, recorded in the West Haven Facility operating record the inspector's name; date of the inspection; the condition of each tank, container, secondary containment system, and emergency equipment; and subsequent corrective actions taken to resolve any issues identified during the inspections, as required by Permit Conditions I.D.3 and I.D.4.
 - 10.3.2.3. TSOR has: (1) removed any accumulations of water (including stormwater), used oil, or other liquids in the secondary containment system within 24 hours of discovery; and (2) maintained records documenting the proper characterization, handling, and disposal of used oil related wastes (e.g., oily rags, absorbent, and wastewater), as required by UAC R315-15-5.5(d)(4) and (5) and Permit Conditions I.F.6.a, I.I.1 and I.I.2.
 - 10.3.2.4. Each TSOR employee conducting used oil operations has been adequately trained, as required by Permit Conditions II.F.1 through II.F.5.
 - 10.3.2.5. A description and corrective action of any non-compliance identified by TSOR, with the recordkeeping, labeling, and training requirements described above in ¶¶ 10.3.2.1 through 10.3.2.4. The description should include the date(s) and type(s) of non-compliance, why the non-compliance occurred, and the immediate actions taken by TSOR to return to compliance with the Rules and Permit.

PROPOSED – SETTLEMENT NEGOTIATIONS

- 10.3.3. On or before the 15th day of May 2024, August 2024, November 2024, and February 2025, for the previous three months, TSOR shall submit to the Director, complete copies of: (1) used oil storage tank records for required Permit Conditions I.F.3.a and b; (2) weekly facility inspection records required by Permit Conditions I.D.3 and I.D.4; (3) records documenting that used oil related wastes (e.g., oily rags, absorbent, oily wastewater, and oily stormwater) have been properly characterized to determine if the wastes are hazardous or non-hazardous and have been sent to a facility permitted to accept the type of oily waste generated in accordance with Permit Conditions I.F.6.a, I.I.1, and I.I.2 and the Rules; and (4) used oil training records for employees, initial and annual refresher training, or any additional training that is required if the Permit is modified or the facility's used oil handling procedures have been updated as required by Permit Conditions II.F.1 through II.F.5.
- 10.3.4. For each submittal required by ¶¶ 10.3.1, 10.3.2, and 10.3.3, above, TSOR shall include the following statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision according to a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.”

EFFECT OF CONSENT ORDER

For the purposes of this CONSENT ORDER, the parties agree and stipulate to the above stated facts. The obligations in this CONSENT ORDER apply to and are binding upon the Division of Waste Management and Radiation Control and upon TSOR and any of TSOR's successors, assigns, or other entities or persons otherwise bound by law.

The stipulations contained herein are for the purposes of settlement and shall not be considered admissions by any party and shall not be used by any person related or unrelated to this CONSENT ORDER for purposes other than determining the basis of this CONSENT ORDER. Nothing contained herein shall be deemed to constitute a waiver by the State of Utah of its right to initiate enforcement action, including civil penalties, against TSOR in the event of future non-compliance with this CONSENT ORDER, with the Act, the Utah Solid and Hazardous Waste Act, the Rules, or with Permit UOP-0195; nor shall the State of Utah be precluded in any way from taking appropriate action should such a situation arise again at the TSOR facility. However, entry into this CONSENT ORDER shall relieve TSOR of all liability for violations which did arise or could have arisen with respect to the allegations contained in NOV/CO No. 2111115.

PROPOSED – SETTLEMENT NEGOTIATIONS

EFFECTIVE DATE

This CONSENT ORDER shall become effective upon the date of execution by the Director.

PUBLIC PARTICIPATION

This CONSENT ORDER 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 his consent if any comment received during the Comment Period discloses facts for consideration indicating the CONSENT ORDER is inappropriate, improper, or inadequate.

SIGNATORY

The undersigned representative of Tri State Oil Reclaimers, Inc. certifies she is authorized to enter into this CONSENT ORDER and to execute and legally bind Tri State Oil Reclaimers, Inc.

Pursuant to the Utah Used Oil Management Act (the Act), Utah Code § 19-6-701, *et seq.*, in the *Matter of Tri State Oil Reclaimers, Inc., Notice of Violation and Compliance Order No. 2111115*, the parties hereto mutually agree and consent to STIPULATION AND CONSENT ORDER No. 2111118 as evidenced below:

TRI STATE OIL RECLAIMERS, INC.

THE STATE OF UTAH
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WASTE MANAGEMENT
AND RADIATION CONTROL

Sharna Welty, Vice President

Douglas J. Hansen, Director

Date: _____

Date: _____



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111118**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0195 – West Haven Facility
Notice of Violation No. 2111115 – Draft Total Proposed Penalty Amount: \$48,626.00

Violation Number 1 (Finding 7)

Violation Description: *Permit Condition I.F.1 by failing to have used oil records readily accessible for review by representatives of the Director.*

1. Gravity Based Penalty: \$2,600.00

(a) Potential for Harm – Moderate

Failure to maintain accurate used oil storage tank logs and used oil processor tank records are fundamental to the continued integrity of the Used Oil Program. These documents are critical as they are used to evaluate Tri State Oil Reclaimers, Inc. (TSOR)'s compliance with their Used Oil Processor Permit and Utah Administrative Code R315-15 (Rules.) Per the penalty policy, the violation fits the Moderate for the potential for harm because the violation has, or may have, a medium adverse effect on statutory or regulatory purposes or procedures for implementing the used oil program.

(b) Extent of Deviation – Moderate

The extent of the deviation is significant but some of the used oil records were accessible for review by representatives of the Director.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: NA

(b) Willfulness/Negligence: NA

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: NA

Economic benefit was not calculated due to difficulty in assessing TSOR's cost savings in failing to have records accessible for review by representatives of the Director.

4. Recalculation of Penalty based on New Information: NA

Violation 1: Penalty Total: \$2,600.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111118**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0195 – West Haven Facility
Notice of Violation No. 2111115 – Draft Total Proposed Penalty Amount: \$48,626.00

Violation Number 2 (Finding 8)

Violation Description: *Permit Conditions I.F.3.a and b, by failing to record the required information in tank logs for several sampling events, multiple loads of used oil received or shipped from the facility, and transfer of used oil between facility tanks.*

1. Gravity Based Penalty: \$2,600.00

(a) Potential for Harm – Moderate

Failing to keep all required information in the tank logs resulted in potential risk of exposure to humans and the environment. Employees could not discern if the used oil in a tank had been sampled or tested prior to marketing the oil to on-specification used oil burners in Utah and surrounding states. As asphalt plants do not have the safety controls required to burn off-specification used oil, their employees could have been harmed by breathing exhaust from the asphalt plants and subsequently surrounding soils and surface waters could also have been contaminated. Failure to maintain accurate used oil storage tank logs and used oil processor tank records are fundamental to the continued integrity of the Used Oil Program. These documents are critical as they are used to evaluate TSOR's compliance with their Used Oil Processor Permit, and Utah Administrative Code R315-15 (Rules.)

(b) Extent of Deviation – Moderate

The extent of the deviation is significant but some of the recording requirements were met.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: 15% Increase @ \$390.00

TSOR has failed to promptly correct this violation or provide verification that the facility has returned to compliance as ordered in the NOV/CO, which subsequently has caused the Director to make additional efforts to verify that TSOR returned to compliance.

(c) Willfulness/Negligence: 15% Increase @ \$390.00

TSOR should have known that the failure to record all shipments accepted and shipped from the facility could result in the marketing of untested used oil to on-specification used oil burners and managers should have periodically reviewed the tank log records to assure that the records complied with the requirements of the Permit and the Rules.

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Increase Penalty @ \$600.00

The Division had difficulty in accurately quantifying the economic benefit to TSOR due to the fact that some shipments of used oil were never recorded or only some of the required information was recorded for shipments in the tank logs. However, TSOR did have an economic benefit as it takes approximately 15 minutes for a driver to fill out the tank log. A conservative estimate for the labor costs saved by TSOR for six employees to complete the tank logs from October 20, 2020, to June 24, 2021, is \$600.00.

4. Recalculation of Penalty based on New Information: NA

Violation 2: Penalty Total: \$3,980.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111118**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0195 – West Haven Facility
Notice of Violation No. 2111115 – Draft Total Proposed Penalty Amount: \$48,626.00

Violation Number 3 (Finding 9)

Violation Description: *Permit Conditions I.D.3 and I.D.4 by failing to conduct and document weekly inspections of the facility's safety equipment, used oil storage containers and tanks, and the secondary containment system.*

1. Gravity Based Penalty: \$3,800.00

(a) Potential for Harm – Moderate

There was a moderate risk of exposure to human health and the environment and recordkeeping is a critical component of the Used Oil Program to evaluate a facilities regulatory compliance.

(b) Extent of Deviation – Major

TSOR failed to document the weekly inspections of the facility since the TSOR West Haven Facility was permitted on October 20, 2020, through June 24, 2021.

(c) Multiple Events: Increase @ \$5,920.00 for 32 (33-1) events (\$185.00 per event)

2. Adjustment Factors:

(a) Good Faith: 15% Increase @ \$1,458.00

TSOR has failed to promptly correct this violation or provide verification that the facility has returned to compliance, which subsequently has caused the Director to make additional efforts to verify that TSOR returned to compliance.

(b) Willfulness/Negligence: 15% Increase @ \$1,458.00

On June 24, 2021, TSOR's Utah Manager stated to Division inspectors that he would instruct employees to conduct and document the weekly inspections as required by the Permit. On June 9, 2022, in a meeting with TSOR's Utah Manager, a Division inspector asked if TSOR employees were conducting weekly inspection of the West Haven Facility as required by the Permit. TSOR's Manager stated that employees had conducted and documented weekly inspection of the facility most of the time but that they sometimes "skipped a week."

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Increase Penalty @ \$160.00

The Division estimated that TSOR saved at least \$160.00 in employee labor cost saving by failing to record 32 weekly inspections from October 20, 2020, through June 24, 2021 (.25 hrs./inspection @ \$5.00 x 32 events).

4. Recalculation of Penalty based on New Information: NA

Violation 3: Penalty Total: \$12,796.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111118**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0195 – West Haven Facility
Notice of Violation No. 2111115 – Draft Total Proposed Penalty Amount: \$48,626.00

Violation Number 4 (Finding 10)

Violation Description: *Utah Admin. Code (UAC) R315-15-5.5(b) by failing to maintain used oil storage tanks and their associated pipes and valves in good condition.*

1. Gravity Based Penalty: \$200.00

(a) Potential for Harm – Minor

There was a minor risk of exposure to human health and the environment. The West Haven Facility tanks have a secondary containment system to contain released of used oil and the Tank Farm is enclosed by a fence and the access gate is locked when facility personnel are not present.

(b) Extent of Deviation – Minor

At the time of inspection, most tanks and auxiliary equipment were in good condition.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: 10% Increase @ \$20.00

TSOR failed to provide documentation, as ordered in the NOV/CO, in TSOR’s response to the NOV/CO, that storage tanks and associated piping and tank valves have been inspected and repaired which subsequently caused the Director to make additional efforts to verify that TSOR returned to compliance.

(b) Willfulness/Negligence: NA

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Increase Penalty @ \$335.00

The Division estimated that parts labor costs for inspecting tanks and repairing valves to be at least \$335.00.

4. Recalculation of Penalty based on New Information: NA

Violation 4: Penalty Total: \$555.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 211118**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0195 – West Haven Facility
Notice of Violation No. 211115 – Draft Total Proposed Penalty Amount: \$48,626.00

Violation Number 5 (Finding 11)

Violation Description: *Permit Condition I.F.6.a by failing to maintain records of wastewater (includes stormwater) received at or generated at the facility and the proper disposal of this wastewater.*

1. Gravity Based Penalty: \$3,200.00

(a) Potential for Harm – Moderate

There was a moderate risk of exposure to human health and the environment as TSOR failed to determine if the oily wastewater generated at the facility was a hazardous or a non-hazardous waste and document that the proper disposal of this waste.

(b) Extent of Deviation – Major

TSOR does not have written records documenting wastewater/stormwater received at or generated at the facility or records documenting proper disposal of wastewater/stormwater since the facility was permitted in October of 2020.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: 15% Increase @ \$480.00

TSOR has failed to promptly correct this violation or provide verification that the facility has returned to compliance, which subsequently has caused the Director to make additional efforts to verify that TSOR returned to compliance.

(b) Willfulness/Negligence: NA

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: NA

Economic benefit was not calculated due to difficulty in assessing TSOR's cost savings as it is unknown how much wastewater or stormwater was generated and disposed of by the facility.

4. Recalculation of Penalty based on New Information: NA

Violation 5: Penalty Total: \$3,680.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 211118**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0195 – West Haven Facility
Notice of Violation No. 211115 – Draft Total Proposed Penalty Amount: \$48,626.00

Violation Number 6 (Finding 12)

Violation Description: *Permit Condition I.E.1 by failing to immediately clean up releases of used oil at the facility.*

1. Gravity Based Penalty: \$2,000.00

(a) Potential for Harm – Moderate

There was a moderate risk of exposure to human health and the environment.

(b) Extent of Deviation – Moderate

Significantly deviates from the regulatory requirements; however, some releases of used oil had been remediated by facility personnel.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: NA

(b) Willfulness/Negligence: 5% Increase @ \$100.00

TSOR is aware that releases of used oil are required to be remediated immediately.

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Increase Penalty @ \$1,600.00

TSOR had an economic benefit by not immediately cleaning up releases of used oil. The estimated cost to hire a contractor to cleanup released oil in the secondary containment system is \$1,600.00.

4. Recalculation of Penalty based on New Information: NA

Violation 6: Penalty Total: \$3,700.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111118**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0195 – West Haven Facility
Notice of Violation No. 2111115 – Draft Total Proposed Penalty Amount: \$48,626.00

Violation Number 7 (Finding 13)

Violation Description: *Permit Conditions II.F. 1 through II.F.5 by failing to train employees conducting used oil operations at the West Haven Facility as required by the Permit.*

1. Gravity Based Penalty: \$3,800.00

(a) Potential for Harm – Moderate

Failure to train employees resulted in multiple non-compliances with the Permit and which resulted in a moderate potential for harm to human health and the environment and also has an adverse effect on implementing the Used Oil Program.

(b) Extent of Deviation – Major

TSOR failed to provide used oil training to at least six employees conducting used oil operations at the West Haven Facility in 2020.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: NA

(b) Willfulness/Negligence: NA

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Increase Penalty @ \$980.00

The Division estimated that TSOR saved employee labor costs of at least \$980.00 to conduct a used oil training class attended by eight employees who conducted used oil operations at the West Haven Facility.

4. Recalculation of Penalty based on New Information: NA

Violation 7: Penalty Total: \$4,780.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111118**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0195 – West Haven Facility
Notice of Violation No. 2111115 – Draft Total Proposed Penalty Amount: \$48,626.00

Violation Number 8 (Finding 14)

Violation Description: *Permit Condition I.I.1 by failing to document and maintain records showing proper characterization, handling, and disposal of wastes generated at the facility.*

1. Gravity Based Penalty: \$3,200.00

(a) Potential for Harm – Moderate

TSOR failed to determine or maintain records showing proper characterization, handling, and disposal of wastes generated at the facility which has the potential for harm to human health and the environment if the waste was disposed of at a facility not permitted to handle the oily waste.

(b) Extent of Deviation – Major

TSOR does not have any written records documenting proper disposal of oily wastes since the facility was permitted in October of 2020.

(c) Multiple Events: Number of events of waste disposal could not be determined.

2. Adjustment Factors:

(a) Good Faith: 15% Increase @ \$480.00

TSOR has failed to promptly correct this violation or provide verification that the facility has returned to compliance, which subsequently has caused the Director to make additional efforts to verify that TSOR returned to compliance.

(b) Willfulness/Negligence: NA

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: NA

Economic benefit was not calculated due to difficulty in assessing TSOR's cost savings as it is unknown how much oily waste or stormwater was generated or disposed of by the facility.

4. Recalculation of Penalty based on New Information: NA

Violation 8: Penalty Total: \$3,680.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111118**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0195 – West Haven Facility
Notice of Violation No. 2111115 – Draft Total Proposed Penalty Amount: \$48,626.00

Violation Number 9 (Finding 15)

Violation Description: *Permit Condition I.N.1 and UAC R315-15-13.5(d) require used oil processor facilities to submit a Used Oil Processor Annual Report to the Director of its activities during the 2020 calendar year.*

1. Gravity Based Penalty: \$3,300.00

(a) Potential for Harm – Moderate

There was a moderate risk of exposure to human health and the environment by failing to submit information required by Permit Condition I.N.1 and UAC R315-15-13.5(d).

(b) Extent of Deviation – Major

TSOR failed to submit a Used Oil Processor Annual Report to the Director of its activities during the 2020 calendar year.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: 20% Increase @ \$660.00

TSOR has failed to submit a 2020 Used Oil Processor Annual Report as ordered in the NOV/CO, which subsequently has caused the Director to make additional efforts to have TSOR submit the 2020 Annual Report.

(b) Willfulness/Negligence: 15% Increase @ \$495.00

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: NA

Economic benefit was not calculated due to difficulty in assessing TSOR's cost savings by failing to submit a 2020 Used Oil Processor Annual Report for its West Haven Facility.

4. Recalculation of Penalty based on New Information: NA

Violation 9: Penalty Total: \$4,455.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111118**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0195 – West Haven Facility
Notice of Violation No. 2111115 – Draft Total Proposed Penalty Amount: \$48,626.00

Violation Number 10 (Finding 16)

Violation Description: *Utah Code § 19- 6-113(3)(c) by knowingly making false material statements and representations on facility tank logs in 2021.*

1. Gravity Based Penalty: \$8,000.00

(a) Potential for Harm – Major

Tracking of used oil from the time of collection until it is recycled, burned, or disposed of is a critical regulatory component of RCRA and DEQ’s Used Oil Program. Making false material statements and representations on facility tank logs has a high adverse effect on the Division’s implementation of the Used Oil Program.

(b) Extent of Deviation – Moderate

TSOR made false material statements and representation on multiple tank logs, but some entries were correct.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: NA

(b) **Willfulness/Negligence: 5% Increase @ \$400.00**

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: NA

4. Recalculation of Penalty based on New Information: NA

Violation 10: Penalty Total: \$8,400.00

WASTE MANAGEMENT AND RADIATION CONTROL BOARD

Executive Summary

Proposed Stipulation and Consent Order

Tri State Oil Reclaimers, Inc. (UOP-0135 & UOR-0137)

January 11, 2024

What is the issue before the Board?	This is a proposed Stipulation and Consent Order (SCO) No. 2111116 to resolve Notice of Violation and Compliance Order (NOV/CO) No. 2111113 issued to Tri State Oil Reclaimers, Inc. (TSOR) on September 7, 2022.
What is the historical background or context for this issue?	<p>The NOV/CO was based on findings documented by Division of Waste Management and Radiation Control inspectors regarding used oil transportation and marketing of on-specification used oil operations conducted by TSOR.</p> <p>The SCO includes a total penalty of \$111,601.00. TSOR will make a cash payment of \$55,800.50 within thirty days of the effective date of the SCO. The remaining penalty amount of \$55,800.50 will be deferred and waived by the Director if TSOR complies with the requirements set forth in paragraph 12.2, and the Orders in 13, and remains in compliance with all of the provisions of the Act, the Rules, and the State-issued used oil transporter permit (UOP-0135), and Used Oil Fuel Marketer Registration (UOR-0137), for one year from the effective date of the SCO.</p>
What is the governing statutory or regulatory citation?	§19-6-104 of the Utah Solid and Hazardous Waste Act authorizes the Board to issue orders and approve or disapprove settlements negotiated by the Director with a civil penalty over \$25,000.
Is Board action required?	<p>No, this is an informational item only.</p> <p>The 30-day public comment period will begin on January 8, 2024 and end on February 7, 2024. Following the 30-day public comment period, this matter will be brought before the Board for final action in a future meeting.</p>
What is the Division Director's recommendation?	Not applicable at this time.
Where can more information be obtained?	<p>For technical information, please contact Leonardo Calcagno at (385) 499-0872.</p> <p>For legal information, please contact Elizabeth A. Burns, Assistant Attorney General at (385) 441-4789.</p>

DSHW-2024-002111

Attachments:

Notice of Violation and Compliance Order No. 2111113 (DSHW-2021-019922)

Stipulation and Consent Order No. 2111116 (DSHW-2022-026364)

Penalty Narrative (DSHW-2022-026363)



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

September 7, 2022

Charles Welty, Registered Agent
Tri State Oil Reclaimers, Inc.
1770 Otto Road
Cheyenne, WY 82007

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

7019 2970 0000 1261 6597

RE: Notice of Violation No. 2111113
Used Oil Transporter Permit (UOP-0135)
Used Oil Marketer Registration (UOR-0137)
WYD988869400

Dear Mr. Welty:


Enclosed is a **NOTICE OF VIOLATION AND COMPLIANCE ORDER (NOV/CO)**, Number 2111113, based on findings documented by Division of Waste Management and Radiation Control inspectors regarding used oil transportation and marketing of on-specification used oil burner fuel operations conducted by Tri State Oil Reclaimers, Inc. (TSOR). Please be advised that compliance with this ORDER is mandatory; and nevertheless, compliance with the ORDER will not relieve TSOR of liability for past violations.

Within 30 days of the date of this NOV/CO, this ORDER requires TSOR to provide certain information to the Director, including written verification that the violations documented in the NOV have been corrected, unless the ORDER, specifies a longer period for certain items.

Please be advised that TSOR's required response to the ORDER or any voluntary response to this NOV will not constitute an administrative contest to the attached NOV. If you wish to contest this NOV/CO, within 30 days from the effective date of the attached NOV/CO, you must submit a request for agency action that meets the requirements prescribed by R305-7-303, Utah Administrative Code.

If you have any questions, please call Michelle Weis at (801) 536-0256.

Sincerely,


Douglas J. Hansen, Director

Division of Waste Management and Radiation Control

(Over)

DJH/MAW/kd

Enclosure: Notice of Violation and Compliance Order Number 2111113

c: Annette Maxwell, U.S. EPA, Region VIII (ENF-RC)
Kimberly D. Shelly, Executive Director, Utah Department of Environmental Quality
Connie S. Nakahara, Assistant Attorney General, Utah Office of the Attorney General
Jayci Dinges, HSE Manager, Tri State Oil Reclaimers, Inc. (Email)
Thorpe Cox, Utah Manager, Tri State Oil Reclaimers, Inc. (Email)
Robert Breuer, Compliance and Enforcement Program Manager, Wyoming DEQ (Email)
Joel Frost, Compliance and Enforcement Inspector, Wyoming DEQ (Email)

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In the Matter of:	:	NOTICE OF VIOLATION/
	:	COMPLIANCE ORDER
Tri State Oil Reclaimers, Inc.	:	No. 2111113
Used Oil Transporter #UOP-0135	:	
Used Oil Marketer # UOR-0137	:	
WYD988869400	:	

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This **NOTICE OF VIOLATION AND COMPLIANCE ORDER (NOV/CO)** is issued by the Director of the Division of Waste Management and Radiation Control (Director) pursuant to the Utah Used Oil Management Act (the Act), Utah Code § 19-6-701 *et seq.*, the Utah Administrative Code R315-15 (UAC or the Rules), the Utah Solid and Hazardous Waste Act, Utah Code § 19-6-101, *et seq.*, and § 19-6-113. The Director has authority to issue such NOTICES and ORDERS in accordance with Utah Code §§ 19-6-705, 19-6-721, 19-6-107(2), and 19-6-112.

FINDINGS

1. Tri State Oil Reclaimers, Inc. (TSOR) is incorporated in the State of Wyoming and registered to conduct business in the State of Utah (entity 8870599-0143). TSOR is the owner and operator of a used oil transportation and marketing business headquartered at 1770 Otto Road, Cheyenne, Wyoming (TSOR Cheyenne Facility).
2. TSOR conducts used oil transportation and used oil marketing operations throughout the State of Utah. TSOR operates in the State of Utah pursuant to the provisions of the Act, the Utah Solid and Hazardous Waste Act, Utah Administrative Code (UAC or the Rules), and a State-issued Used Oil Transporter Permit (UOP-0135), and a State-issued Used Oil Fuel Marketer Registration (UOR-0137).
3. TSOR is a "person" as defined in Utah Code § 19-1-103(4) and, therefore, is subject to all applicable provisions of the Act, the Utah Solid and Hazardous Waste Act, the Rules, Permit UOP-0135, issued to TSOR as owner and operator of its Utah used oil transportation operations, and Registration UOR-0137, issued to TSOR as owner and operator of its Utah used oil fuel marketing operations. TSOR also operates two used oil processor facilities within the State of Utah that receive and provide used oil that may be transported under Permit UOP-135 and marketed under Registration UOR-0137.
4. On October 25, 2013, the Director issued a Used Oil Transporter Permit, UOP-0135 (Permit UOP-0135), to TSOR to operate as a used oil transporter under the provisions of the permit. The Director modified and reissued the permit on April 13, 2020, and again on December 11, 2020.
5. On March 4, 2014, the Director issued a Used Oil Marketer Registration, UOR-0137 (Registration UOR-0137"), to TSOR to operate as a used oil fuel marketer under the provisions of the registration. The Director modified and reissued Registration UOR-0137, effective March 24, 2020.
6. In addition, the Director has issued TSOR a Used Oil Processor Permit UOP-0172, for its facility located at 2370 West Mountain Road, Genola, Utah (Genola Facility), and a Used Oil Processor Permit UOP-0195, for its facility located at 2400 South 1900 West, West Haven, Utah (West Haven Facility), effective February 2, 2018, and October 20, 2020, respectively.

7. In April of 2021, in response to an authorized representative of the Director (inspector) notifying TSOR that it failed to submit, by March 1, 2021, the 2020 Used Oil Processor Annual Report for its facility located at 2400 South 1900 West, West Haven, Utah (the location of the West Haven Facility), the office manager at the TSOR headquarters in Cheyenne stated that TSOR had not used the facility in 2020 so it did not file a 2020 Annual Report for the West Haven Facility.
8. On or about April 7, 2021, an inspector requested, by phone, that TSOR's Utah Manager provide a copy of the used oil storage tank records for year 2020 and year 2021, up to April 7, 2021, for both TSOR's Genola Facility and West Haven Facility.
9. On May 17 and 18, 2021, TSOR's Utah Manager failed to submit any tank log records for the West Haven Facility's used oil storage Tanks 21 through 30 and submitted incomplete records of the requested tanks logs for TSOR's Genola Facility Tanks 1 through 12. The Genola Facility tank logs included:
 - 9.1. Tanks 1 and 2 each had a single log entry dated May 17, 2021;
 - 9.2. Tank 3 had log entries dated from June 12, 2020 to March 29, 2021;
 - 9.3. Tank 4 log had a single entry dated May 4, 2021;
 - 9.4. Tank 5 log had entries dated from March 10, 2021 to May 5, 2021;
 - 9.5. Tank 6 log had no log entries recorded;
 - 9.6. Tank 7 log had entries dated from February 24, 2021 to March 24, 2021;
 - 9.7. Tank 8 log had entries dated from January 1, 2021 to April 6, 2021;
 - 9.9. Tank 9 log had entries dated from October 22, 2020 to April 19, 2021;
 - 9.10. Tank 10 log had entries dated from November 18, 2020 to April 22, 2021;
 - 9.11. Tank 11 log had entries dated from November 18, 2020 to April 22, 2020; and
 - 9.12. Tank 12 log had entries dated from November 18, 2020 to May 12, 2021.
10. On May 18, 2021, TSOR's Utah Manager confirmed by phone to an inspector that TSOR had marketed, transported, and delivered multiple loads of used oil to customers as on-specification burner fuel without first verifying that the used oil had met the specification requirements of UAC R315-15-1.2. He further stated that, prior to shipment, TSOR's employees failed to: 1) accurately record in tank logs the volume of used oil accepted and shipped from the Genola Facility or the West Haven Facility; and 2) confirm that the analytical data for used oil stored in the Genola Facility and West Haven Facility tanks had met the specification requirements of UAC R315-15-1.2 for on-specification used oil burner fuel (on-spec used oil).
11. On June 17, 2021, inspectors conducted a compliance evaluation inspection at the Jenkins Oil Company facility (Jenkins Facility), located at 1100 West 560 North, Industrial Road, Cedar City, Utah to determine if TSOR was storing used oil at the Jenkins Facility. During the inspection:
 - 11.1. The inspectors identified a 21,000-gallon frac tank, SFVP 4056L, approximately three-quarters full of material that was later confirmed as used oil (*see* ¶ 11.3 below). E. Jenkins, owner of the Jenkins Facility, orally confirmed he allowed TSOR to place the tank (hereinafter referred to as the "TSOR-Cedar City Tank") on his property and orally and in a written statement, E. Jenkins verified TSOR trucks had been on site. He also told the inspectors that the reason TSOR wanted to have a used oil storage tank on his property was to "save them time on their transportation" of used oil.

- 11.2. In his June 17, 2021 written statement, E. Jenkins stated TSOR picked up used oil “incur[red]” by Jenkins Oil without any “paperwork.”
- 11.3. The inspectors collected a sample of the contents stored in the TSOR-Cedar City Tank for analysis which the Division confirmed was used oil by laboratory analysis dated June 29, 2021.
- 11.4. In a mailbox, located under the TSOR-Cedar City Tank, the inspectors found a copy of a Summit Environmental Technologies, Inc. analytical data report number 21051432-001A dated May 25, 2021, for a composite used oil sample that was collected on May 18, 2021 from TSOR’s Genola Facility used oil storage Tanks 4, 5, 6, and 7.
12. On or about June 24 through July 1, 2021, an inspector documented in multiple phone conversations with TSOR’s Utah Manager, that TSOR stored used oil in the TSOR-Cedar City Tank.
13. On June 24, 2021, inspectors conducted a compliance evaluation inspection at Triple H Excavating, Inc.’s (“Triple H”) facility located at 1668 South 1900 West, West Haven, Utah.
 - 13.1. E. Habertson, owner of Triple H, stated the following to inspectors:
 - 13.1.1. Triple H allowed TSOR to place three 21,000-gallon frac tanks on the southeastern section of Triple H’s property sometime in January or February of 2020;
 - 13.1.2. That one of TSOR’s three frac tanks currently remained on Triple H’s property; and
 - 13.1.3. Triple H allowed TSOR to use the Triple H’s truck parking area as a “drop yard” (hereinafter referred to as the TSOR Triple H drop yard) so that TSOR drivers could park used oil transportation vehicles (i.e., semi-truck/tanker, tanker truck, and “pup” trailer).
 - 13.2. Inspectors documented the following:
 - 13.2.1. One 21,000-gallon frac tank (hereinafter referred to as the “TSOR-Triple H Tank”) located on the southeastern section of the Triple H property;
 - 13.2.2. The TSOR-Triple H Tank contained approximately 2 inches of a substance resembling oil (~142 gallons).
 - 13.2.3. Oil-stained soils were observed beneath the TSOR-Triple H Tank’s valves and in other areas near the tank; and
 - 13.2.4. Oily rags and components of used oil field screening test kits (i.e., sampling syringes, titration burettes, reaction tubes and plungers), manufactured by Dexsil Corporation, which are known to be used by TSOR to determine the halogen and water content in used oil, next to the TSOR-Triple H Tank and other areas near the tank.
14. On or about June 24 through July 1, 2021, TSOR’s Utah Manager stated to an inspector:
 - 14.1. That TSOR owned the TSOR-Triple H Tank and two other frac tanks that had been placed on Triple H’s property.
 - 14.1.1. Later, on July 8, 2021, TSOR documented its purchase of the three frac tanks by submitting a copy of a cancelled check, dated February 21, 2020, in the amount of \$11,250, paid to Lindley Construction for three tanks (VIN Numbers 41-0398, 41-0496, and 41-0498).
 - 14.2. Initially, TSOR’s Utah Manager stated that TSOR had only stored used antifreeze collected from customers in the TSOR-Triple H Tank.

- 14.3. On a subsequent call, after an inspector informed TSOR's Utah Manager that inspectors had documented: 1) oil in the bottom of the Triple H Tank; 2) oil stained soils surrounding the tank; 3) oil soaked rags beneath the tanks access valves; and 4) in the area around the TSOR-Triple H Tank and in areas where the other two TSOR frac tanks had been located, components of used oil halogen field screening test kits. The TSOR Utah Manger then stated that:
 - 14.3.1. the oil found in the tank was crude oil left in the tank by the previous owner of the tank;
 - 14.3.2. that TSOR's employees had not used the frac tanks to store used oil; and that someone other than TSOR must have spilled oil, dumped oily rags, and components of used oil test kits on the ground next to the TSOR-Triple H Tank.
15. Inspectors conducted subsequent inspections at TSOR's facilities in Utah to obtain used oil records and to determine whether TSOR's used oil transportation and marketing operations conducted at TSOR's used oil storage facilities in the State of Utah were in compliance with applicable Rules. These inspections occurred on:
 - 15.1. June 24, 2021, at the TSOR West Haven Facility, located at 2400 South 1900 West, West Haven, Utah;
 - 15.2. June 24, 2021, at the TSOR Genola Facility, located at 2370 West Mountain Road, Genola, Utah;
 - 15.3. June 25, 2021, at the TSOR West Haven Facility, located at 2400 South 1900 West, West Haven, Utah;
 - 15.4. August 30, 2021, at the TSOR shop, located at 14955 South 2200 West, Bluffdale, Utah;
 - 15.5. September 9, 2021, at the TSOR Genola Facility, located at 2370 West Mountain Road, Genola, Utah.
16. On July 1 and 2, 2021, inspectors conducted a review of used oil records required to be maintained at the TSOR Cheyenne Facility located at 1770 Otto Road, Cheyenne, Wyoming by Permit UOP-0135 and Registration UOR-137. Inspectors requested to review: 1) TSOR driver time documentation for 2020 and 2021; 2) U.S. Department of Transportation (DOT) electronic logs for each driver from January 1, 2021 to July 1, 2021; 3) used oil collection and delivery records between January 1, 2020 through July 1, 2021; 4) employee training records for three years - 2019, 2020, and 2021; 5) and all analytical data used to market on-specification used oil to burners in Utah for 2019, 2020, and 2021. During the inspection, TSOR provided inspectors only a portion of the documents (297 pages) and stated it would submit additional documents at a later date.
17. From May 2021, up until the issuance of this NOV/CO, inspectors reviewed over 3,000 records relating to TSOR's transportation, marketing, and processing, including: 1) TSOR records collected during inspections conducted on June 24 and 25, July 1 and 2, August 30, and September 9, 2021; 2) records provided by email from TSOR; 3) documents obtained by emails from other sources; and (4) documents provided by mail from TSOR on August 20, 2021.
18. Utah Admin. Code R315-15-4.3(a) requires used oil transporters to comply with the notification requirements of RCRA Section 3010 and obtain an EPA identification number. Notwithstanding that the Director extended the time for TSOR to submit its RCRA Section 3010 notification until July 10,

2019,¹ TSOR failed to notify of its used oil transportation activities in accordance with the notification requirements of RCRA Section 3010.

19. TSOR must maintain all applicable used oil records required by UAC R315-15, Permit UOP-0135, and Registration UOR-0137 at TSOR's Cheyenne Facility, located at 1770 Otto Road, Cheyenne, Wyoming. Both the permit and registration require TSOR to maintain used oil records so that all required records are readily accessible for review by inspectors.
 - 19.1. At the time of the inspection on July 1 and 2, 2021, TSOR failed to provide hundreds of used oil records to representatives of the Director to demonstrate that: 1) its records are "readily accessible for review;" and 2) TSOR's operational and record keeping compliance, in violation of Permit UOP-0135 and Registration UOR-0137.
 - 19.2. After the inspection on July 1 and 2, 2021, TSOR failed to comply with the inspectors' request to submit to the Division used oil records not available for review on July 1 or 2, 2021 as required by Rule and Permit UOP-0135:
 - 19.2.1. TSOR failed to submit used oil shipping records for 40 shipments of on-specification used oil delivered to a used oil processor located at 1669 South 580 East, American Fork, Utah for 2020 and 2021 (*see* Exhibit A).
 - 19.2.2. TSOR failed to submit multiple collection and delivery records for shipments of bulk used oil transported between at least one TSOR tank located in Utah and another TSOR tank, whether located in Utah or outside of Utah, including shipments originating or ending at 1) (either the Genola Facility (Permit UOP-0172); 2) the West Haven Facility (Permit UOP-0195); 3) unpermitted tanks such as the TSOR-Cedar City Tank, TSOR-Unpermitted West Haven Tanks, or the TSOR-Triple H Tank; or 4) a TSOR facility located outside of Utah in Colorado, Montana, or Wyoming (*see* Exhibit B).
20. Utah Admin. Code R315-15-4.7(a) requires that used oil transporters keep a written record of each used oil shipment accepted or collected for transport. Records of acceptance or collection of used oil shall take the form of a log, invoice, manifest, bill of lading (BOL), or other shipping documents and shall include: 1) the name, address, and EPA identification number, if applicable, of the generator, transporter, transfer facility, burner, or processor/re-refiner who provided the used oil for transport; 2) the quantity of used oil accepted; 3) the date of acceptance; 4) documentation the UAC R315-15-4.5 halogen requirement has been met; and 5) a signature, dated upon receipt of the used oil, of a representative of the generator, transporter, transfer facility, burner, or processor/re-refiner who provided the used oil for transport. Findings related to documentation of the halogen requirement are addressed separately in Finding 23 below.
 - 20.1. TSOR failed to document on at least 336 out of the 340 collection records the TSOR facility address and the facility's EPA identification number for bulk shipments of on-specification used oil collected from its used oil facilities in Colorado, Montana, Utah, or Wyoming that TSOR delivered to customers in Utah between January 1, 2020 through July 6, 2021. In addition to other occurrences, TSOR failed to record the collecting facility address and EPA identification number on BOL #17692, dated November 11, 2020, and BOL #14276, dated April 22, 2021.

¹ On June 26, 2019, the Division issued TSOR Warning Letter Number 1906042, notifying TSOR that it had not complied with the notification requirements of UAC R315-15-4.3.

21. Utah Admin. Code R315-15-4.7(b) requires that a used oil transporter keep a written record of all used oil delivered to a receiving facility, including another used oil transporter, transfer facility, burner, processor, or disposal facility. Used oil delivery records shall include: 1) as the Permittee, Utah transporter TSOR's name, address, EPA identification number, vehicle designation number, driver's name, and the type of delivery (i.e., bulk oil in tankers or containerized, specifying container types and numbers); 2) the date of delivery; 3) the volume of used oil delivered; and 4) the name, the address, EPA identification number, and signature (dated upon receipt) of the receiving facility or other transporter.
 - 21.1. From January 1, 2020 to June 30, 2021, TSOR failed to record on used oil delivery records (i.e., BOLs) the information required by UAC R315-15-4.7(b) for shipments of used oil delivered to a receiving facility (used oil transporter, transfer facility, burner, processor):
 - 21.1.1. the receiving facility's address on at least 133 BOLs for shipments of on-specification used oil delivered to customers in Utah and surrounding states. In addition to other occurrences, TSOR failed to record the receiving address on BOL #17448, dated August 19, 2020.
 - 21.1.2. the receiving facility's name and address on at least 250 used oil delivery BOLs for used oil collected directly from generators by TSOR driver TC ,and then delivered to TSOR's Utah facilities from January 1, 2020 through June 30, 2021. In addition to other occurrences, TSOR failed to record the receiving facility's name and address on BOL #0309792, dated June 23, 2021.
 - 21.2.3. TSOR failed to keep any written delivery records for at least 110 loads of used oil collected directly from generators by TSOR driver TT, that were then delivered to either TSOR's Genola Facility or TSOR's West Haven Facility from January 1, 2020 through June 30, 2021. In addition to other deliveries without delivery records, TSOR driver TT collected generator used oil (BOL#0305424) on July 28, 2020, and which he then delivered TSOR's Genola Facility. (see Genola Facility Tank 10 record).
22. Permit UOP-0135 requires that, prior to loading the used oil for transport, TSOR shall determine the halogen concentration is below 1,000 ppm for all loads of used oil collected directly from generators by: 1) using a permit authorized halogen test kit; 2) obtaining certified laboratory results of the halogen content of the used oil; or 3) for used oil collected after April 12, 2020, obtaining a determination from the Director that the information asserting generator knowledge is sufficient. For used oil collected prior to April 13, 2020, TSOR may screen the used oil with an unexpired Dexsil Clor-D-Tect® 1000 or Q4000 test kit. For used oil collected after April 12, 2020, TSOR may screen the used oil with a Clor-D-Tect® halogen test kit (method 9077). Permit UOP-0135 requires TSOR to record the halogen concentration on the shipping record.
 - 22.1. On June 9, 2019, and on September 21, 2020, TSOR's Cheyenne Facility's Office Manager, emailed the Division a copy of all invoices for purchases of halogen screening test kits made by TSOR that were delivered to TSOR's Utah Manager in 2019, 2020, and 2021.

² For used oil collected prior to April 13, 2020, see Permit UOP-135 (effective October 25, 2013), Attachment 1, Conditions 1.1.1 and 1.1.2; Attachment 2, Conditions 2.1.1 and 2.5.1.3. For used oil collected after April 12, 2020, see Permit UOP-135 (effective April 13, 2020 and December 11, 2020), Conditions I.F.3, I.H.1, II.B.1, and II.C.1; Attachment 2, Condition A.1, B.1, B.2, C.1, and C.2; and Attachment 3, Conditions A.1, B.5, B.6, and D.1.

- 22.2. From January 1, 2020 to March 17, 2020, in violation of Permit UOP-0135 (October 25, 2013), TSOR's drivers failed to determine the halogen concentration for at least 484 loads (~342,655 gallons) of used oil collected directly from generators prior to loading the used oil for transport.
- 22.2.1. On March 20, 2019, the Division conducted an inspection of your used oil transportation operations to evaluate compliance with Permit UOP-0135. TSOR's Utah Manager stated to an inspector that TSOR drivers did not screen the used oil for halogens at the time of collection unless they were a new customer, or the used oil seemed suspicious. Also, drivers were recording the halogen content on the BOL as "Total Halogens < 1000 ppm" which falsely indicated they had screened the oil prior to loading.
- 22.2.2. On June 20, 2019, the Division issued a Warning Letter that clearly stated that TSOR had to screen all loads of used oil prior to collection to be in compliance with its Permit UOP-0135.
- 22.2.3. On September 10, 2019, the Division met with TSOR's Safety Manager and discussed the failure of their drivers to screen the used oil prior to collection and that Permit UOP-0135 (Effective October 25, 2013) prohibits the use of "Generator Knowledge" to determine halogen content of the oil the at time of collection. TSOR's Safety Manager also stated in the meeting that TSOR would comply with the halogen screening requirements of Permit UOP-0135 until TSOR could modify its Permit to allow the use of generator knowledge.
- 22.2.4. On September 13, 2019, an inspector emailed TSOR's Safety Manager, to remind TSOR that it was required to screen all loads of used oil collected directly from generators prior to loading the used oil to comply with the Permit. In addition, the inspector stated in the email that: 1) drivers could not record " Halogens < 1000 ppm" on a BOL if they had not actually screened the used oil prior to loading; and 2) knowingly making a false material statement on a manifest/BOL is prohibited by Utah Code § 19-6-113(3)(c).
- 22.2.5. On September 13, 2019, TSOR's Safety Manager emailed an inspector stating that he had discussed this issue with TSOR's Vice President and the Utah Manager and that TSOR remained committed to following Utah's used oil regulations.
- 22.2.6. On January 28, 2019 and May 10, 2019, TSOR purchased a total of 400 halogen screening test kits. Based on TSOR's collection BOL's, dated from September 13, 2019 through December 31, 2019, TSOR collected over 600 loads of used oil directly from generators. As TSOR did not have a sufficient number of halogen screening test kits available, TSOR failed to conduct halogen tests on the used oil prior to transport on at least 200 loads in violation of Permit UOP-0135.
- 22.2.7. The Division has determined that halogen screening tests kits were not available for use by drivers for at least 484 loads of used oil, collected from generators from January 1, 2020 through March 17, 2020.
23. In addition to the permit requirements described in ¶ 22 above, Permit UOP-0135 (effective April 13, 2020 and December 11, 2020), Attachment 3, Condition B.6, requires, prior to off-loading the used oil to storage tanks at the Genola Facility or the West Haven Facility, that TSOR perform a halogen screening of bulk loads of used oil collected from generators to satisfy the quality control sample requirements of EPA Method 9077 (halogen test kit method). Permit UOP-135 allows TSOR to use a CLOR-D-TECT® or HYDROCLOR-Q halogen test kit to satisfy the quality control sample requirement.

- 23.1. From April 13, 2020 through June 31, 2021, TSOR drivers failed to perform the required halogen quality control duplicate sample on at least 276 bulk loads of used oil prior to off-load/delivery to used oil storage tanks at either TSOR's Genola Facility or its West Haven Facility (*see* Permit UOP-0135 (April 13, 2020 and December 11, 2020), Attachment 3. In addition to other occurrences, on March 26, 2021 (BOL #0309295), TSOR failed to conduct halogen quality control duplicate samples on the basis that:
- 23.1.1. On March 18, 2020, TSOR purchased 240 halogen test kits for use by Utah drivers from March 18, 2020 through June 31, 2021.
 - 23.1.2. From March 18, 2020 through April 12, 2020, TSOR drivers were required to determine the concentration of halogen on at least 160 loads of used oil collected directly from generators prior to loading (*see* Permit UOP-0135 (October 25, 2013)).
 - 23.1.3. From April 13, 2020 through June 31, 2021, TSOR delivered 356 bulk loads of used oil to either TSOR's Genola Facility or West Haven Facility.
 - 23.1.4. Accordingly, TSOR failed: 1) to screen collected used oil to determine the halogen content prior to loading; or 2) to conduct a halogen screen prior to off-loading the used oil for at least 276 loads of used oil.
24. Permit UOP-0135 (April 13, 2020, and December 11, 2020), Condition I.F.3, and Attachment 2, Conditions A.1, B.1 and B.2 require that drivers record the halogen content of the used oil and the specific method used (i.e., field test EPA Method 9077, Laboratory EPA Method 9075 or 9076, or Generator Knowledge) to determine the halogen content of the used oil on shipping records. Drivers are required to record "Halogens \leq 1000 ppm" on the shipping record if using EPA Methods 9077, 9075 or 9076; 2), and record "Halogens \leq 1000 ppm/GenKno" if using "Generator Knowledge" to determine the halogen content of the used oil prior to collection.
- 24.1. TSOR's Utah Manger stated in a meeting with the Division on June 6, 2022, that TSOR drivers determined the halogen content of used oil collected from generators using "Generator Knowledge" since the approval of Permit UOP-0135 (effective April 13, 2020).
- 24.1.1. From April 13, 2020 to July 31, 2021, TSOR collected at least 3,165 loads of used oil. Accordingly, TSOR's drivers failed to record "Halogens \leq 1000 ppm/GenKno" on at least 3,165 used oil collection records for those used oil loads in which TSOR asserted it used "Generator Knowledge" to determine the halogen content of used oil collected from generators. In addition to other occurrences, TSOR failed to record the receiving address on BOL #0309180, dated March 4, 2021.
25. Permit UOP-0135, Attachment 3, Condition D.1 (April 13, 2020 and December 11, 2020) requires that TSOR have information on file, (e.g., analytical testing, industry process knowledge) from the generator which is determined by the Director as sufficient to support any use of generator knowledge to determine the halogen content of used oil collected from generators.
- 25.1. From, April 13, 2020 through June 31, 2021, TSOR failed to have any information on file for review by the Director to support the use of generator knowledge for at least 3,165 loads of used oil (*See* Permit UOP-0135 (April 13 and December 11, 2020) and ¶ 24.1 above. TSOR impermissibly relied on generator knowledge for 3,165 loads of used oil (2,260,649 gallons) collected from at least 664 different generators in violation of the Permit. In addition to other occurrences, TSOR failed have information on file to support the use of generator knowledge for used oil collected from Cardwell Distributing, Inc. (BOL #0306458) on January 21, 2021.
26. Utah Admin. Code R315-15-13.4(d)(1-5) requires permitted transporters submit a yearly Used Oil Transporter Annual Report to the Director no later than March 1, of the year following the reported

activities. The Annual report shall contain the following information: 1) the EPA identification number, name, and address of the transporter/transfer facility; 2) the calendar year covered by the report; 3) the total amount of used oil transported; 4) the itemized amounts and types of used oil transferred to permitted transporters and transfer facilities, used oil processors/re-refiners, off-specification used oil burners, and used oil fuel marketers; and 5) the itemized amounts and types of used oil transferred inside and outside the state, indicating the state to which used oil is transferred, and the specific name, address and telephone number of the operations or facility to which used oil was transferred.

26.1. As a permitted transporter, TSOR failed to provide an accurate total volume of used oil transported in Utah in 2020 on its Used Oil Transporter Annual Report from multiple shipments of used oil (*see* Exhibit B), as follows:

26.1.1. Collected from one of TSOR's permitted and unpermitted facilities located in Utah and delivered to another TSOR facility or an on-specification burner;

26.1.2. Collected from a TSOR facility located outside of Utah, including TSOR's Cheyenne Facility; TSOR's facility in Rock Springs, Wyoming (hereinafter referred to as "Rock Springs Facility"), TSOR's facility located in Helena, Montana (hereinafter referred to as "Helena Facility"); and TSOR's facility located in Rifle, Colorado (hereinafter referred to as "Rifle Facility) and transported the oil to a TSOR permitted or unpermitted facility or on-specification burner located in Utah or an on-specification burner located in Utah;

26.1.3. Collected from a generator located in Utah and delivered to one of TSOR's permitted or unpermitted facilities located in or outside of Utah; and

26.1.4. Collected from a generator located outside of Utah and delivered to one of TSOR's permitted or unpermitted facilities located in Utah, or an on-specification burner located in Utah.

27. Utah Admin. Code R315-15-4.6(a) and R315-15-13.4(a) prohibit a person from storing used oil at a facility for more than 24 hours without first obtaining a used oil transfer facility permit specific to that facility, issued by the Director.

27.1. Based on information obtained from inspections, drivers timesheets, DOT logs, or statements made by TSOR employees, TSOR stored used oil longer than 24 hours in unpermitted used oil storage tanks, located in Cedar City, Utah (*see* ¶ 27.2), at two locations in West Haven, Utah (*see* ¶ 27.3; and), and in transportation vehicles (tankers) (*see* ¶ 27.4; and ¶ 27.5) in 2020 and 2021 (*see* Exhibit B). Accordingly, TSOR as the owner and operator of the unpermitted used oil storage tanks and used oil transportation vehicles failed to: 1) comply with the notification requirements of RCRA Section 3010 and obtain an EPA identification number as required UAC R315-15-4.3(a); and 2) failed to obtain a used oil transfer facility permit prior to storing use oil at the facility longer than 24 hours, as required by UAC R315-15-4.6(a) and R315-15-13.4(a) (*see* Exhibit B).

27.1.1. TSOR's drivers refer to the TSOR-Cedar City Tank and the facility location on their timesheets as "Cedar City," "Cedar City TNK," "Cedar City TSO TNK," "Frack (*sic*) tank Cedar City," "TSO Cedar TANK," and "TSO Cedar City TNK," "Cedar TNK TSO," "TSO Cedar TNK," "Cedar TSO," and "Cedar TSO TNK."

27.1.2. Drivers TT, LJI, JDL, FA, and SB refer to unpermitted tanks and permitted tanks located in West Haven Utah as "stakes (*sic*) parsons," "TSO/Staker Tank Farm Ogden,"

“OGDEN,” “Ogden tank farm,” “Ogden tanks,” “tank farm Ogden,” “Ogden,” “Ogden TSO,” “Ogden site,” or “OGU.”

- 27.2. Between May 7, 2020 and June 17, 2021 TSOR stored used oil longer than 24 hours in the TSOR-Cedar City Tank (*see* Exhibit B).
- 27.2.1. On or about June 24 through July 1, 2021, TSOR’s Utah Manager confirmed by phone to an inspector that TSOR knowingly stored used oil longer than 24 hours and 35 days in the TSOR-Cedar City Tank without obtaining a used oil transfer facility permit or a used oil processor permit.
- 27.2.2. On July 1, 2021, Charles Welty, TSOR President, orally confirmed to inspectors that he knew TSOR stored used oil longer than 24 hours and 35 days in the TSOR-Cedar City Tank and that he knew it was in violation of the Rules.
- 27.3. TSOR stored used oil longer than 24 hours: 1) in one or more unpermitted frac tanks owned by TSOR (hereinafter referred to as the “TSOR-Unpermitted West Haven Tanks) on property located at 2400 South 1900 West Haven, Utah, from March 27, 2020 through October 19, 2020, on property leased from Staker Parson Companies (Staker); and 2) from May 12, 2020 through November 11, 2020, in the TSOR-Triple H Tank located at 1668 South 1900 West (*see* Exhibit B).
- 27.3.1. From May 12, 2020 through November 11, 2020, TSOR driver FA, stated to inspectors: (1) that he collected and delivered loads of used oil to or from TSOR-Triple H Tank (*see* Exhibit B and ¶ 27.1.2); (2) that he did not collect or deliver any used oil loads to the TSOR-Unpermitted West Haven Tanks during this time period; and (3) that on November 11, 2020, he collected the last load of used oil that TSOR stored in the TSOR-Triple H Tank and delivered this used oil to a used oil burner in Idaho (BOL #17639), which stated that the used oil met the specification requirements of UAC R315-15-1.2.
- 27.3.2. On March 27, 2020, TSOR driver TT, recorded on a timesheet documenting “Working OW TSO/Staker Tank Farm (6 hours).”
- 27.3.3. On May 12, 2020 and June 23, 2020, TSOR driver TT recorded on his timesheet documenting that he collected used oil from “Ogden” and then delivered the used oil to TSOR’s Rock Springs Facility. This used oil could have been collected from either the TSOR-Unpermitted Tanks or the TSOR-Triple H Tank.
- 27.3.4. On May 15, 2020, TSOR driver TT, recorded on a timesheet that he collected used oil from TSOR’s Cheyenne Facility and transported the used oil to “Ogden”. This used oil could have been delivered to either the TSOR-Unpermitted Tanks or the TSOR-Triple H Tank.
- 27.3.5. The Director issued TSOR a Used Oil Processor Permit for its West Haven Facility on October 20, 2020. All used oil stored at the West Haven Facility from October 20, 2020 through March 8, had not yet been verified to have met the on-specification requirements of UAC R315-15-1.2. TSOR collected a composite sample of used oil from Tanks 21, 22, 23, and 24 on February 24, 2021. On March 9, 2021, TSOR received an analytical data report for the sample verifying that this used oil met the on-specification requirements of UAC R315-15-1.2.
- 27.3.6. Nevertheless, on February 23, 2021, TSOR’s driver DOT logs, and timesheet entries for TSOR driver TT, document a shipment of used oil was collected from the West Haven Facility that was then delivered to an on-specification burner on BOL #17476, dated

February 24, 2021, that certified that the used oil met the specification requirements of UAC R315-15-1.2.

- 27.3.7. Accordingly, TSOR as the owner and operator of the TSOR-Cedar City Tank failed to: (1) comply with the notification requirements of RCRA Section 3010 and obtain an EPA identification number as required UAC R315-15-4.3(a); and (2) failed to obtain a used oil transfer facility permit prior to storing use oil at the facility longer than 24 hours, as required by UAC R315-15-4.6(a) and R315-15-13.4(a) (*see* Exhibit B).
- 27.4. Between September 1 and 3, 2020, between September 7 and 9, 2020, between September 14 and 16, 2020, and between September 25 and 28, 2020, TSOR driver FA parked a TSOR semi-truck/tanker, that contained bulk loads of used oil, at the Utah Tank and Trailer facility (hereinafter referred to as the TSOR-Utah Tank Drop Yard), located at 2255 South 5370 West, West Valley City, Utah, for longer than 24 hours in violation of UAC R315-15-4.6(a) (*see* Exhibit B).
- 27.5. On May 14, 2021 to May 18, 2021, TSOR driver TT, parked TSOR's semi-truck/tanker (number 65) and a "pup" tanker, which contained used oil on the street at 6183 South 1550 East, Ogden, Utah, for longer than 24-hours.
 - 27.5.1. On May 13-14, 2021, DOT driver logs for TSOR driver TT, document that he collected used oil from businesses located in eastern Utah from Enoch to St. George, Utah, using TSOR semi-truck/tanker (number 65).
 - 27.5.2. On May 14, 2021, at 1215 hours, DOT driver logs for TSOR driver TT document that he left St. George, Utah and drove semi-truck/tanker (number 65), to 6183 South 1550 East, Ogden, Utah, and the ignition was turned off @ 1850 hours. The ignition was not turned on again until May 18, 2021 at 0910 hours.
 - 27.5.3. A Google Image dated May 16, 2021, documents that a tanker truck and pup trailer was parked on the street at 6183 South 1550 East, Ogden, Utah.
 - 27.5.4. TSOR provided no records documenting that TSOR unloaded the used oil prior to parking semi-truck/tanker (number 65) at 6183 South 1550 East, Ogden, Utah.
28. Permit UOP-0135 (October 25, 2013), Attachment 4, Condition 4.0.1- 4.0.2.6 and Permit UOP-0135, Conditions II.E.1-II.E.5 (April 13, 2020 and December 11, 2020) require TSOR to train employees that conduct used oil operations in used oil identification, recordkeeping requirements, emergency spill plan, facility used oil procedures for handling, transporting, sample collection, halogen screening and laboratory analytical methods, rebuttable presumption testing, and the appropriate use of "generator knowledge" when determining the halogen content of used oil in accordance with the Permit and UAC R315-15-4. New employees may not manage, or process used oil without a trained employee present until used oil training is completed. Employees must be trained annually (refresher) after their initial training.
 - 28.1. TSOR failed to train employees that transported used oil in Utah from January 1, 2019 through August 29, 2021 in accordance with Permit UOP-0135 as follows:
 - 28.1.1. TSOR failed to demonstrate it provided initial used oil training for one employee, conducting used oil operations, including transportation of used oil in Utah, in 2019 as required by Permit UOP-0135 (October 25, 2013), Attachment 4, ¶¶ 4.0.1- 4.0.2.6.
 - 28.1.2. TSOR failed to demonstrate it provided initial used oil training to six employees, and annual refresher training to five employees, conducting used oil operations, including transportation of used oil in Utah, in 2020 as required by Permit UOP-0135 (October 25,

2013) Attachment 4, Conditions 4.0.1- 4.0.2.6 and UOP-0135 (April 13, 2020 and December 11, 2020), Conditions II.E.1-5.

- 28.1.3. TSOR failed to demonstrate it provided initial used oil training to six employees and annual refresher training to four employees, conducting used oil operations, including transportation of used oil in Utah, from January 1, 2021 through August 29, 2021 as required by Permit UOP-0135 (December 11, 2020), Conditions II.E.1-5.
- 29. Registration UOR-0137 (March 24, 2020), Conditions E.1 through E.4, require TSOR to train employees that collect used oil samples: (1) in sample collection procedures; (2) in laboratory analytical methods; (3) in quality control samples requirements; (4) in the specific types of sample containers needed; (5) in sample preservation and holding time requirements; and (6) in record keeping requirements.
 - 29.1. From March 24, 2020 through August 19, 2021, TSOR failed to provide employees the training required by Registration UOR-0137 (March 24, 2020), Conditions E.1 through E.4.
 - 29.1.1. On June 25, 2021, inspectors, accompanied by TSOR's Utah Manager, observed TSOR employee LJL collect a used oil sample from Tanks 22, 23, and 24 at TSOR's West Haven Facility. Employee LJL failed to follow the tank sampling procedures required by the Registration UOR-0137 (March 24, 2020), Conditions E.1 through E.4.
 - 29.1.2. The TSOR employee LJL stated to the inspectors that he was not aware that TSOR had a Registration and that he had never been trained by TSOR on the sampling and analytical requirements of Registration UOR-0137.
 - 29.1.3. TSOR's sample analytical data reports for eight composite samples and Chain of Custody records dated from September 25, 2020 (Analytical Report # 20091833-001A) through June 18, 2021 (Analytical Data Report # 21061395-001A), employee LJL collected 22 used oil samples from the Genola Facility tanks, and seven used oil samples from the West Haven Facility tanks on May 18, 2021 (Analytical Data Report # 21051324-001A) which TSOR used to determine if the used oil met the specification requirements of UAC R315-15-1.2 prior to marketing the used oil as on-specification used oil to customers.
 - 29.1.4. On June 25, 2021, TSOR's Utah Manager stated to the inspectors that:
 - 29.1.4.1. TSOR's Utah Manager did not know specific requirements for sample collection in Marketer Registration UOR-0137.
 - 29.1.4.2. TSOR's Utah Manager was the only person that prepared and shipped the used oil samples, collected by him and other TSOR employees, to the laboratory for analysis; and
 - 29.1.4.3. TSOR's Utah Manager admitted that did not comply with the sample preservation and holding time requirements of Registration UOR-0137.
 - 29.2. On August 30, 2021, inspectors observed TSOR's Safety Manager train employees on the handling of used oil and the requirements of UAC R315-15, Permit UOP-0135 (effective December 11, 2020), and Registration UOP-0137 (effective March 24, 2020). Inspectors documented the following:
 - 29.2.1. TSOR's Safety Manager stated to the inspectors that he had not read TSOR's Registration UOR-0137.

- 29.2.2. TSOR employee TC stated that he was not aware of and had not been trained on the sampling and analytical requirements of Registration UOR-0137.
- 29.2.3. TSOR's sample analytical data reports for 10 composite samples and their Chain of Custody records dated from January 14, 2020 (Analytical Report # 20010891-001A) through February 24, 2021 (Analytical Data Report #2103007-001A), document that employee TC collected 50 used oil samples from the Genola Facility tanks, and four used oil samples from the West Haven Facility tanks which TSOR used to determine if the used oil met the specification requirements of UAC R315-15-1.2 prior to marketing the used oil as on-specification used oil to customers.
30. Registration UOR-0137 (March 24, 2020), Attachment 2, Condition C, requires TSOR to collect used oil samples from tanks in accordance with sampling Method ASTM-D7831-COLIWASA.
- 30.1. On June 25, 2021, TSOR employee LJL confirmed to inspectors that he collected 22 used oil samples from TSOR's Genola Facility tanks and seven used oil samples from TSOR's West Haven Facility tanks for eight composite samples from September 25, 2020 to June 18, 2021, where he failed to collect used oil samples in accordance with sampling Method ASTM-D7831-COLIWASA.
31. Registration UOR-0137 (March 24, 2020), Attachment 2, Condition B.1 and B.2, requires, after a tank is sampled to determine whether it meets the on-specification requirements of UAC R315-15-1.2, that TSOR "lock down" the tank valve, and to record in the facility's operating record the date, the time, and the volume of used oil in the tank at the time of lock down. Once TSOR receives the analytical results for the sample, the facility operator must record the time the lock was removed, and the volume of oil removed from the tank in the operating record.
- 31.1. From May 1, 2020 through June 18, 2021, TSOR's employees failed to record all required information following tank sampling, including the date, time, and volume of used oil in the tank when it was "locked down" and the date, time, and volume of used oil shipped from the tank when the lock on the tank was removed, in the facility operating record for 58 samples collected from Genola Facility's tanks, including samples collected from Tanks 10, 11, and 12 on October 15, 2020, and 11 samples collected from West Haven's tanks, including samples collected from Tanks 21, 22, 23, and 24 on February 24, 2021.
32. Registration UOR-0137 (March 4, 2014), Conditions 2.1 and B.4, and UOR-0137 (March 24, 2020), Conditions B.1 and B.4, require TSOR, as a marketer, to determine whether its marketed used oil meets the fuel specification limits in UAC R315-15-1.2 by collecting and analyzing used oil samples from individual tanks prior to marketing the oil stored in the tanks. TSOR is prohibited from compositing used oil samples collected from multiple tanks.
- 32.1. Following a review of TSOR's used oil analytical data from January 31, 2019 through June 18, 2021, TSOR composited used oil samples collected from individual used oil storage tanks to determine if the oil in each tank met the specification requirements of UAC R315-15-1.2, prior to marketing the oil as on-specification used oil to customers, as follows:
- 32.1.1. From January 31, 2019 to December 5, 2019, TSOR's employees collected 18 composite samples, using 57 samples collected from individual tanks at TSOR's Genola Facility in violation of UOR-0137 (March 4, 2014), including on December 5, 2019, TSOR composited samples for "TSO Tank Utah 1 & 6" (*see* analytical report 19120469-001A);
- 32.1.2. From January 14, 2020 to March 3, 2020, TSOR's employees collected three composite samples collected from 14 individual tanks at TSOR's Genola Facility in violation of

- UOR-0137 (March 4, 2014), including on January 14, 2020, TSOR composited samples for “TSO Tank Utah 7-12” (*see* analytical report 20010891-001A);
- 32.1.3. From May 1, 2020 to November 18, 2020, TSOR’s employees collected nine composite samples, using 42 samples collected from individual tanks at TSOR’s Genola Facility, including on June 4, 2020, TSOR composited samples for “TSO Utah 7-12” (*see* analytical report 20060464-001A);
- 32.1.4. From May 3, 2021 to June 18, 2021, TSOR’s employees collected three composite samples, using 10 samples collected from individual tanks at TSOR’s Genola Facility, including on May 3, 2021, TSOR composited samples for “Keigley 5, 11, 12” (*see* analytical report 21050510-001A); and
- 32.1.5. On February 24, 2021, a TSOR employee collected one composite sample, using six samples collected from individual tanks at TSOR’s Genola Facility (tanks 7-12) and four samples collected from individual tanks at TSOR’s West Haven Facility (tanks 21-24) (*see* analytical report 21030007-001A).
- 32.1.6. On May 18, 2021, a TSOR employee collected one composite sample, using seven samples collected from individual tanks at TSOR’s West Haven Facility (tanks 24-30) (*see* analytical report 21051324-001A).
33. Registration UOR-0137 (March 24, 2020), Condition D.1 requires that TSOR, as a used oil fuel marketer, shall collect and analyze an additional quality control used oil sample for every 20 used oil samples collected that are used to determine whether the used oil meets the specification requirements of R315-15-1.2 UAC.
- 33.1. On June 25, 2021, TSOR’s Utah Manager stated to inspectors that neither he nor his employees collected any quality control samples in 2020, and from January 1, 2021 through June 25, 2021.
- 33.2. As authorized by TSOR, TSOR’s laboratory provided the Division all analytical data reports for: (1) on-specification used oil collected from TSOR’s facilities located outside of Utah and then delivered to customers in Utah; and (2) used oil collected from a TSOR Utah facility that was delivered to customers in both Utah and surrounding states. The laboratory data provided no documentation that TSOR collected and analyzed duplicate quality control samples for any used oil samples collected from tanks at the TSOR Cheyenne Facility, the TSOR Helena Facility, the TSOR Genola Facility, the TSOR Rifle Facility, or the TSOR West Haven Facility.
- 33.3. From January 14, 2020 through July 13, 2020, TSOR collected a total of 40 used oil samples from tanks at a TSOR facility, including: (1) the TSOR Cheyenne Facility (seven tank samples) marketed to burners in Utah; (2) the TSOR Genola Facility (32 tank samples) and; (3) the TSOR Helena Facility (one tank sample) marketed to burners in Utah; nevertheless, TSOR failed to collect and analyze a minimum of two additional quality control samples as required for on-specification used oil marketed and delivered to used oil burners in and out of Utah.
- 33.4. From August 8, 2020 through June 28, 2021, TSOR collected a total of 86 used oil samples from tanks at a TSOR facility: (1) the TSOR Cheyenne Facility (13 tank samples) marketed to burners in Utah; (2) the TSOR Rifle Facility (16 tank samples) marketer to burners in Utah; (3) Genola Facility (42 tank samples); (4) the TSOR Helena Facility (one tank sample) marketed to burners in Utah; and (4) the TSOR West Haven Facility (14 tank samples); nevertheless, TSOR failed to collect and analyze a minimum of four additional quality control samples as required for on-specification used oil marketed to used oil burners in and out of Utah.
34. Registration UOR-O137 (March 4, 2014) Condition 3.1, and UOR-0137 (March 24, 2020), Condition D.3, requires TSOR to preserve used oil samples sent to the laboratory for analysis at a temperature

between 4°C to 6° C for EPA Analytical Methods 9075 (Total Halogens), 8082A (PCBs), and 1010A (Flashpoint).

- 34.1. From January 14, 2020 through July 13, 2020, TSOR failed to cool 14 used oil samples to a preservation temperature of 4° to 6°C that were collected from the TSOR Cheyenne Facility (seven samples), the TSOR Genola, Facility (six samples), and the TSOR Helena Facility (one sample). In addition to other instances of noncompliance, Summit Sample Log-in Check List for Work Order 20010891, logged January 16, 2020, recorded the sample was not received at a temperature of greater than 0°C to 6° C. TSOR used the resulting analytical data to document that the used oil marketed to customers in Utah met the specification requirements of UAC R315-15-1.2.
- 34.2. From August 8, 2020 through June 28, 2021, TSOR failed to cool 33 used oil samples to a preservation temperature of 4° to 6° C that were collected from the TSOR Cheyenne Facility (seven samples), the TSOR Genola, Facility (12 samples), the TSOR Helena Facility (one sample), the TSOR Rifle Facility (eight samples), the TSOR West Haven Facility (four samples), and one composite sample containing used oil from both the TSOR Genola Facility and the TSOR West Haven Facility. In addition to other instances of noncompliance, Summit Sample Log-in Check List for Work Order 20091833, logged September 28, 2020, recorded the sample was not received at a temperature of greater than 0°C to 6° C. TSOR used the resulting analytical data to document that the used oil marketed to customers in and out of Utah met the specification requirements of UAC R315-15-1.2.
35. Registration UOR-0137 (March 24, 2020), Condition B.6 and UAC R315-15-7.7 require that TSOR, as a used oil fuel marketer, use a Utah-certified laboratory as specified in UAC R315-15-1.8 to satisfy the analytical requirements of UAC R315-15-7.
 - 35.1. On November 9 and 23, 2020, and March 1, 2021, TSOR authorized Summit Environmental Technologies, Inc. to subcontract with Conti Testing Laboratories Inc. to analyze samples 20110368 (TSO Utah 7,8, 9), 2011299 (TSO Utah 10, 11, 12), and 21030007 (TSO Utah 7-12 & 21-24), respectively. In violation of its Permit and the Rules, Conti Testing Laboratories, Inc. was not certified by the State of Utah when it analyzed the samples.
36. Utah Admin. Code R315-15-7.3(a) specifies that used oil will not be considered on-specification used oil until a used oil fuel marketer certifies, in accordance with the requirements of their Utah Marketer Registration, that used oil marketed to used oil burners meets the specifications of UAC R315-15-1.2 and the PCB requirements of UAC R315-15-18.
 - 36.1. From January 1, 2020 to May 18, 2021, TSOR marketed at least 350,648 gallons of used oil, stored in tanks at TSOR's Genola Facility as on-specification used oil burner fuel to customers without first sampling and analyzing the used oil to verify that the used oil had met the specifications requirements of UAC R315-15-1.2 and the PCB requirements of UAC R315-15-18 based on:
 - 36.1.1. From November 8, 2019 through May 18, 2021, TSOR collected used oil samples from 74 used oil tanks at TSOR's Genola Facility that it sent to a laboratory to determine if the used oil had met the specifications requirements of UAC R315-15-1.2 and the PCB requirements of UAC R315-15-18. The laboratory generated analytical reports which specify the client, the sample collection date, the date the analytical results are reported, a unique laboratory identification number (or analytical report number), and the specific tanks sampled.
 - 36.1.1.1. On January 1, 2020, only 20,000 gallons remained of the 40,000 gallons of used oil sampled in the Genola Facility tanks 2 and 3, on November 8, 2019.

- 36.1.2. Pursuant to Genola Facility Permit UOP-0172, TSOR may store a maximum capacity of 21,000 gallons in each tank, 1 through 12. *See* UOP-0172 (February 2, 2018), Condition II.C.1. TSOR’s Utah Manager stated to an inspector that TSOR does not fill its tanks to maximum capacity as to decrease the risk of overfilling a tank and causing a release of used oil into the secondary containment system. The Division calculated the amount of untested used oil marketed (350,648 gallons) with the assumption that the average volume of oil in a “full” tank was 20,000 gallons.
- 36.1.2.1. Accordingly, from January 1, 2020 through May 18, 2021, the total volume of used oil that was sampled in the 74 tanks was 1,460,000 gallons (¶ 36.1.1).
- 36.1.3. From January 2, 2020 through January 24, 2021, TSOR drivers recorded a specific analytical report number generated from the 74 tanks referenced in ¶ 35.1.1 above on each of its BOLs. During this period, TSOR marketed a total of 1,810,648 gallons of on-specification used oil delivered in 286 delivery loads using the analytical data from the 74 tanks tested.
- 36.1.4. Based on the foregoing, in violation of its Permit and the Rules, TSOR marketed at least 370,648 gallons of used oil as on-specification used oil burner fuel from the Genola Facility storage tanks without any supporting analytical data. In addition to other deliveries relying on separate analytical data, specifically TSOR shipped 145,685 gallons of used oil on 18 BOLs, dated from August 12, 2020 to February 24, 2021, that TSOR had recorded the analytical report number 20080450-001A on each of the BOLs. The maximum combined total volume of used oil sampled, in tanks 7-12, and verified (*see* analytical data report 20080450-001A) to have met the specification requirements UAC R315-15-1.2 was 120,000 gallons. Thus, TSOR marketed a minimum of 25,685 gallons of untested used oil as on-specification used oil burner fuel using the analytical data report 20080450-001A.
37. Utah Admin. Code R315-15-7.2 requires that a used oil fuel marketer may only initiate a shipment of off-specification used oil only to a used oil burner who has an EPA identification number and burns the used oil in an industrial furnace or boiler identified in UAC R315-15-6.2.
- 37.1. Between March 10, 2020 and October 16, 2020, TSOR delivered at least 209,389 gallons of off-specification used oil to customers on 25 BOLs collected from TSOR’s Genola Facility to facilities in Arizona, Idaho, Nevada, Utah, and Wyoming that at the time of delivery the customers were prohibited from burning off-specification burner fuel. *See* UAC R315-15-6.2.
- 37.2. The 25 TSOR BOLs accompanying the off-specification used oil referenced analytical data reports that document that the used oil failed to meet the specification requirements of UAC R315-15-1.2 as follows:
- 37.2.1. Analytical report # 20030215-001A documented that used oil contained lead (Pb) at 217 ppm. The maximum concentration of Pb allowed in on-specification used oil burner fuel is 100 ppm as specified UAC R315-15-1.2.
- 37.2.2. Analytical report # 20091833-001A documented that used oil contained Pb at 166 ppm. The maximum concentration of Pb allowed in on-specification used oil burner fuel is 100 ppm as specified UAC R315-15-1.2.
- 37.2.3. Analytical report # 20091833-001A documented that used oil had a flash point of 54°(F). The minimum flash point allowed for on-specification used oil burner fuel is 100°F as specified UAC R315-15-1.2.

38. Utah Code § 19-6-113(3)(c) states: “No person shall knowingly omit material information or make any false material statement or representation in any application, label, manifest, record, report, permit, operation plan, or other document filed, maintained, or used for purposes of compliance with this part or RCRA.”
- 38.1. October 7, 2019, TSOR knowingly made false material statement to the Director that TSOR had complied with the notification requirements of UAC R315-15-4.3(a) (RCRA Section 3010) in a response to a Division Warning Letter issued to TSOR on June 26, 2019. As of June 16, 2022, TSOR has yet to comply with the notification requirements of UAC R315-15-4.3(a) (RCRA Section 3010 (*see* Finding 18).
- 38.2. TSOR representatives knowingly omitted material information and made false material statements to the Director’s representatives that they did not store used oil longer than 24 hours in: (1) the unpermitted TSOR-Cedar City Tank; (2) the unpermitted TSOR-Unpermitted West Haven Tanks; (3) the unpermitted TSOR-Triple H Tank; (4) used oil tanker trucks parked at the TSOR-Utah Tank Drop Yard; and (5) in a used oil tanker truck parked on the residential street at 6183 South 1550 East, Ogden, Utah as follows:
- 38.2.1. From May 7, 2020 and June 17, 2021, TSOR stored used oil longer than 24 hours in the TSOR-Cedar City Tank (*see* ¶ 27.2 and Exhibit B).
- 38.2.2. TSOR stored used oil in unpermitted tanks longer than 24 hours: From March 27, 2020 to October 19, 2020, TSOR stored used oil longer than 24 hours in the TSOR-Unpermitted West Haven Tanks, (*see* ¶ 27.3 and Exhibit B).
- 38.2.3. Between May 12, 2020 to November 11, 2021, TSOR stored used oil longer than 24 hours in the TSOR-Triple H Tank, on property located at 1668 South 1900 West, West Haven, Utah (*see* ¶ 27.3 and Exhibit B).
- 38.2.4. Between September 1 and 3, 2020, between September 7 and 9, 2020, between September 14 and 17, 2020, and between September 25 and 28, 2020, TSOR stored used oil longer than 24 hours in a used oil tanker trucks at the TSOR-Utah Tank Drop Yard. (*see* ¶ 27.4 and Exhibit B).
- 38.2.5. From May 14, 2021 to May 18, 2021, TSOR stored used oil longer than 24 hours in a used oil tanker truck and pup trailer on the street at 6183 South 1550 East, Ogden, Utah (*see* ¶ 27.5 and Exhibit B).
- 38.3. TSOR knowingly omitted information on their Used Oil Transporter Annual Report, submitted to the Director March 26, 2021, and their “revised” Annual Report, submitted on August 29, 2021, for shipments of used oil collected from or delivered to TSOR’s Genola Facility, TSOR’s Unpermitted West Haven Tanks, TSOR’s one of TSOR’s unpermitted and permitted facilities in Utah or a TSOR facility located out of Utah that were delivered to TSOR’s Utah Genola Facility, or the TSOR-Unpermitted West Haven Tanks, or the TSOR-Triple H Tank, as collecting and delivering used oil to the unpermitted TSOR-Unpermitted West Haven Tanks, TSOR-Cedar City Tank, and the TSOR-Triple H Tank, Utah (*see* ¶ 26.1 and Exhibit B).
- 38.4. TSOR representatives knowingly made false material statements or representations on used oil BOLs for multiple shipments of on-specification used oil burner fuel delivered to on-specification burners located in Utah and surrounding States. In addition to other occurrences:
- 38.4.1. TSOR knowingly made false material statements on the TSOR BOL# 12070, dated May 12, 2020, by recording on the BOL that the used oil delivered to the Kilgore Companies (Kilgore) facility, was certified to have met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 20010891-001A, for a composite

used oil sample, collected on January 14, 2020, from the TSOR Genola Facility tanks 7-12. TSOR driver FA's timesheet entry on May 12, 2020, records that the used oil was collected from the unpermitted TSOR-Triple H Tank ("Ogden") (*see* ¶¶ 27.1; 27.3 and Exhibit B).

- 38.4.2. TSOR knowingly made false material statements on a TSOR BOL, dated June 22, 2020, by recording on the BOL that the used oil delivered to the Kilgore's facility in Kemmerer, Wyoming, was certified to have met the used oil specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 20050105-001A for a composite oil sample, collected on May 1, 2020, from the Genola Facility tanks 1-6, but TSOR driver FA's timesheet records that used oil was collected from the unpermitted TSOR Triple H Tank (*see* ¶¶ 27.1; 27.3 and Exhibit B).
- 38.4.3. TSOR knowingly made false material statements on the TSOR BOL# 17589, dated July 4, 2020, by recording on the BOL that the used oil delivered to the Staker facility in Maeser, Utah, was certified to have met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 20060464-001A, for a composite used oil sample, collected on June 6, 2020, from the TSOR Genola Facility tanks 7-12. TSOR driver FA's timesheet entry on June 6, 2020, records that the used oil was collected from the TSOR's Rock Springs Facility tanks located in Wyoming (*see* Exhibit B).
- 38.4.4. TSOR knowingly made false material statements on TSOR BOL# 17619, dated September 28, 2020, by recording on the BOL that the used oil delivered to the Staker facility in Maeser, Utah, was certified to have met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 20091174-001A, for a composite used oil sample, collected on September 14, 2020, from the tank(s) at the TSOR Helena Facility located in Montana. TSOR driver FA's timesheet entry on September 25, 2020, records that the used oil was collected from the unpermitted TSOR-Triple H Tank (*see* ¶¶ 27.1; 27.3; and Exhibit B).
- 38.4.5. TSOR knowingly made false material statements on TSOR BOL# 17476, dated February 24, 2021, by recording on the BOL that the used oil delivered to the Staker facility in Washington, Utah, was certified to have met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 20111299-001A, for a composite used oil sample, collected on November 18, 2020, from the TSOR Genola Facility tanks 10, 11, and 12. TSOR driver TT's timesheet entry on February 24, 2021, records that the used oil was collected from the TSOR West Haven Facility tanks (*see* ¶¶ 27.1; 27.3; and Exhibit B).
- 38.4.6. TSOR knowingly made false material statements on a TSOR BOL, dated April 22, 2021, by recording on the BOL that the used oil delivered to the Staker facility in Washington, Utah, was certified to have met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 21030007-001A, for a composite used oil sample, collected on February 24, 2021, from the TSOR Genola Facility tanks 7-12. TSOR driver MB's timesheet entry on April 22, 2021, records that the used oil was collected from the unpermitted TSOR-Cedar City Tank (*see* Exhibit B).
- 38.4.7. TSOR knowingly made false material statements on a TSOR BOL, dated May 11, 2021, by recording on the BOL that the used oil delivered to a Staker facility in Moab, Utah, was certified to have met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 21050510-001A, for a composite used oil sample, collected on May 3, 2021, from the TSOR Genola Facility tanks 5,11,12. TSOR driver MB's

Wyoming DOT driver log, dated May 11, 2021, records the used oil was collected from the TSOR Rifle Facility in Colorado (*see* Exhibit B).

- 38.4.8. TSOR knowingly made false material statements on TSOR BOL# 14175, dated August 20, 2020, by recording on the BOL that the used oil delivered to Staker's facility in Littlefield, Arizona, was certified to have met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 20080450-001A, for a composite used oil sample, collected on August 11, 2020, from the TSOR Genola Facility tanks 7-12. TSOR driver TT's timesheet entry on August 19, 2020, records that the used oil was collected from the TSOR Rock Springs Facility in Wyoming (*see* Exhibit B).
- 38.5. In years 2020 and 2021 (January 1, 2021 to May 18, 2021), TSOR knowingly made false material statements or representation on BOLs for shipments of at least 350,684 gallons of used oil from tanks at TSOR's Genola Facility, that TSOR had tested and verified that the used oil had met the specification requirements of UAC R315-15-1.2, prior to delivering the used oil to on-specification burner facilities located in and out of Utah (*see* Finding 36.1).
- 38.6. From March 10, 2020 to October 16, 2020, TSOR made false material statements or representation on 25 TSOR's BOLs for shipments of off-specification used oil (at least 209,389 gallons), collected from TSOR's Genola Facility tanks and delivered to used oil burner facilities in Arizona, Idaho, Nevada, Utah, and Wyoming, by recording on these 25 BOLs that the used oil had been verified to have met used oil met the specification requirements of UAC R315-15-1.2 (*see* Finding 37.1).

DETERMINATION OF VIOLATIONS

In accordance with Utah Code § 19-6-701, et seq., Utah Code § 19-6-101, et seq., and based on the foregoing FINDINGS, Tri State Oil Reclaimers, Inc. has violated applicable provisions of the Rules, the Act, the Utah Solid and Hazardous Waste Act, Used Oil Transporter Permit UOP-0135 (effective October 25, 2013) for certain actions occurring on or before April 13, 2020, Used Oil Transporter Permit UOP-0135 (effective April 13, 2020) for certain actions occurring on or before December 11, 2020, Used Oil Transporter Permit UOP-0135 (effective December 11, 2020), Used Oil Fuel Marketer Registration (effective March 4, 2014) for certain actions occurring on or before March 24, 2020, and Used Oil Fuel Marketer Registration (effective March 24, 2020). Specifically, Tri State Oil Reclaimers, Inc. has violated the following:

1. Utah Admin. Code R315-15-4.3(a) by failing to notify of TSOR's used oil transportation activities in accordance with the notification requirements of RCRA Section 3010 (*see* Finding 18).
2. Permit UOP-0135 and Registration UOR-0137 by failing to have used oil records readily accessible for review upon request of representatives of the Director (*see* Finding 19).
3. Utah Admin. Code R315-15-4.7(a) by failing to document on at least 336 collection records for bulk shipments of on-specification used oil, the TSOR facility address and the facility's EPA identification number (*see* Finding 20).
4. Utah Admin. Code R315-15-4.7(b) by failing to: (1) record on used oil BOLs the information required by UAC R315-15-4.7 (b) for shipments of used oil delivered to a receiving facility, including another used oil transporter, transfer facility, burner, or processor; and (2) to keep any written delivery record for multiple shipments of used oil delivered to TSOR's Genola Facility and West Haven Facility (*see* Finding 21).

5. Permit UOP-0135 (April 13, 2020 and December 11, 2020) Attachment 3, Permit UOP-0135 (October 25, 2013) by failing from January 1, 2020 to March 17, 2020, to determine the halogen content for at least 484 loads of used oil collected directly from generators prior to loading the used oil for transport (*see* Finding 22).
6. Permit UOP-0135, Attachment 3, Condition B.6, (April 13, 2020 and December 11, 2020) by failing from April 13, 2020 through June 31, 2021, to conduct quality control duplicate samples on at least 276 of 356 bulk loads of used oil prior to off-load/delivery to the TSOR Genola Facility or the TSOR Haven Facility (*see* Finding 23).
7. Permit UOP-0135 (April 13, 2020 and December 11, 2020), Condition I.F.3 and Attachment 2, Conditions A.1, B.1, and B.2, by failing to record on at least 3,165 used oil collection records the method the TSOR driver used to determine the halogen content prior to collection (*see* Finding 24).
8. Permit UOP-0135, Attachment 3, Condition D.1 (April 13, 2020 and December 11, 2020) by failing to have information of file determined as sufficient by the Director to support the use of generator knowledge for 3,165 loads of used oil (2,260,649 gallons) collected from 664 generators from April 13, 2020 through June 31, 2021 (*see* Finding 25).
9. Utah Admin. Code R315-15-13.4(d)(1-5) by failing to provide an accurate total volume of used oil transported in Utah in 2020, on the Used Oil Annual Report submitted for operating year 2020 (*see* Finding 26).
10. Utah Admin. Code R315-15-4.6(a) and R15-15-13.4(a) by storing used oil longer than 24 hours and less than 35 days in the unpermitted TSOR-Cedar City Tank, the TSOR-Unpermitted West Haven Tanks, the TSOR-Triple H Tank, the TSOR-Utah Tank Drop Yard, and in a TSOR tanker parked on the street adjacent to 6183 South 1550 East, Ogden, Utah, without first obtaining a Used Oil Transfer Facility Permit issued by the Director (*see* Finding 27).
11. Permit UOP-0135, Attachment 4, Condition 4.0.1- 4.0.2.6 (October 25, 2013), Permit UOP-0135, Conditions II.E.1-II.E.5 (April 13, 2020 and December 11, 2020) by failing to train employees in between January 1, 2019 to August 29, 2021 as required (*see* Finding 28).
12. Registration UOR-0137 (March 24, 2020), Conditions E.1 through E.4, by failing to train employees as required by Registration UOR-0137 (*See* Finding 29).
13. Registration UOR-0137 (March 24, 2020), Attachment 2, Condition C, by failing to properly collect used oil samples from TSOR's Genola Facility and West Haven Facility tanks in accordance with sampling Method ASTM-D7831-COLIWASA (*See* Finding 30).
14. Registration UOR-0137 (March 24, 2020), Attachment 2, Condition B.1 and B.2, by failing to record in the facility's operating record: (1) the date, the time, and the volume of used oil in the tank at the time of lock down; and (2) the time the lock was removed, and the volume of oil removed from the tank for 58 used oil samples collected from the TSOR Genola Facility tanks and 11 samples from the TSOR West Haven Facility tanks (*see* Finding 31).
15. Registration UOR-0137 (March 4, 2014), Conditions 2.1 and B.4, and UOR-0137 (March 24, 2020), Conditions B.1 and B.4, by compositing used oil samples collected from individual tanks at TSOR's Genola Facility and TSOR's West Haven Facility, to determine if the used oil met the specification requirements of UAC R315-15-1.2 (*see* Finding 32).
16. Registration UOR-0137 (March 24, 2020), Condition D.1 by failing to collect and analyze at least four additional quality control sample for the 86 used oil samples collected from tanks at TSOR's facilities in and out of Utah ,that were used to market on-specification used oil to customers in and out of Utah (*see* Finding 33).

17. Registration UOR-O137 (March 4, 2014) Condition 3.1, and UOR-0137 (March 24, 2020), Condition D.3, by failing to preserve 47 used oil samples collected for laboratory analysis at temperatures from 4°C to 6° C in accordance with EPA Analytical Methods 9075 (Total Halogens), 8082A (PCBs), and 1010A (Flash point) (*see* Finding 34).
18. Registration UOR-0137 (March 24, 2020), Condition B.6 and UAC R315-15-7.7, by failing three times to use a Utah-certified laboratory, as specified in UAC R315-15-1.8, to satisfy the analytical requirements of UAC R315-15-7 (*see* Finding 35).
19. Utah Admin. Code R315-15-7.3 by marketing at least 350,648 gallons of used oil collected from tanks at TSOR's Genola Facility to customers as on-specification used oil without verifying, sampling, and analyzing the used oil to ensure it had met the specification requirements of UAC R315-15-1.2 (*see* Finding 36).
20. Utah Admin. Code R315-15-7.2 by shipping 209,389 gallons of off-specification used oil to used oil burners that are prohibited to burn off-specification used oil as specified in UAC R315-15-6.2 (*see* Finding 37).
21. Utah Code § 19- 6-113(3)(c) by knowingly omitting material information, making false material statement and false representation on used oil manifests, records, reports, and other documents filed, maintained, or used for purposes of compliance with this part or RCRA (*see* Finding 38).

ORDER

TSOR is hereby ORDERED to correct all of the violations cited in this NOV/CO. Correction of these violations is mandatory and continued failure to comply with any provisions of Permit UOP-135, Registration UOR-0137, the Act, the Rules, and the Utah Solid and Hazardous Waste Act, may be grounds for revocation, by the Director, of TSOR's Permit UOP-0135 and Registration UOR-0137. In addition TSOR is here by ORDERED to:

1. Within 30 days of issuance of this NOV/CO, TSOR shall submit documentation they have complied with the used oil transporter notification requirements of UAC R315-15-4.3(a) (*see* Violation 1).
2. Within 30 days of issuance of this NOV/CO, TSOR shall submit the following documents to the Director for review to determine if TSOR has returned to compliance with Permit UOP-135, Registration UOR-0137, and the Rules:
 - a. Used oil shipment records, dated from July 20, 2022 through August 1, 2022, for used oil collected directly from generators that was then delivered to either the TSOR Genola Facility or the TSOR West Haven Facility (*see* Violations 2, 3, and 4).
 - b. Used oil shipment records, dated from July 1, 2022 through August 1, 2022, for shipments of on-specification used oil burner fuel shipped to customers from either the TSOR Genola Facility or the TSOR West Haven Facility (*see* Violations 2, 3, and 4).
 - c. A copy of all analytical data reports that were used to verify that the shipments of on-specification used oil burner fuel to customers from July 1, 2022 through August 1, 2022, had met the specification requirements of UAC R315-15-1.2 (*see* Violation 19)
 - d. A copy of analytical data report for any Quality Control samples collected from the TSOR Genola Facility or the TSOR West Haven Facility tanks after July 1, 2021 (*see* Violation 16).
 - e. Information on file to support the use of Generator Knowledge to determine the halogen content, prior to collection, of used oil collected from generators, from July 1, 2022 to August 1, 2022 (*see* Violation 8).

3. Within 30 days of issuance of this NOV/CO, TSOR shall submit to the Director: a revised Used Oil Transporter Annual Report that documents TSOR's used oil operations conducted in Utah in operating year 2020; and submit a 2021 Used Oil Transporter Annual Report for used oil operations conducted in Utah (*see* Violation 9).
4. On or before December 1, 2022, TSOR shall submit to the Director a standardized used oil collection and delivery manifest/BOL (i.e., size, required information and format) to be used by TSOR for all used oil shipments (both generator used oil and on-specification burner fuel) in Utah, that is compliant with the regulatory requirements of TSOR's Permit, Registration, and Rules (*see* Violation 2).
5. Within 60 days of receiving written confirmation from the Director that the standardized manifest or BOL, required to be submitted in Order ¶ 4, meets the applicable requirements of Permit UOP-0135, Registration UOR-0137, and the Rules, TSOR shall submit to the Director a request to modify Permit UOP-0135 to incorporate this manifest/BOL into TSOR's Permit UOP-0135 (*see* Violation 2, 3, and 4).
6. Within 30 days of issuance of this NOV/CO, TSOR shall: (1) maintain copies of all used oil transportation and marketing records at a TSOR facility located in Utah; and (2) submit a written notification to the Director of the address of the location where these records will be maintained in Utah (*see* Violation 2).
7. Within 90 days of issuance of this NOV/CO, TSOR shall submit to the Director a request to modify TSOR's Used Oil Transporter Permit UOP-0135 and Used Oil Marketer Registration UOR-0137, to specify the location of the transportation and marketing records (*see* Violation 2).
8. Within 30 days of issuance of this NOV/CO, TSOR shall submit to the Director a current list of all employees that conduct used oil transportation and marketing operations in Utah and written documentation that all employees have been properly trained, including a copy of training materials, in accordance with requirements of TSOR's Used Oil Transporter Permit UOP-0135 and Used Oil Marketer Registration UOR-0137 (*see* Violation 12).
9. On or before December 1, 2022, TSOR shall submit to the Director:
 - a. copies of TSOR BOLs, dated from September 1, 2022 to October 31, 2022, for on-specification used oil: 1) collected from TSOR's Genola and West Haven facilities or other used oil facilities in Utah and delivered to customers in and out of the State of Utah; and 2) used oil collected from TSOR's facilities or other facilities, not located Utah, and delivered to customers in Utah;
 - b. copies of the analytical data reports that TSOR used to verify that used oil, shipped on BOLs dated from September 1, 2022 to October 31, 2022, had met the specification requirements of UAC R315-15-1.2.
10. TSOR shall cease and desist making false material statements and false representation on used oil manifests, records, reports, and other documents filed, maintained, or used for purposes of compliance with the Permit, Registration, Act, the Utah Solid and Hazardous Waste Act, and Rules (*see* Violation 21).
11. Within 30 days of the date of issuance of this NOV/CO, is hereby ORDERED to provide the Director with the following information and analyses for each violation above:
 - a. The root cause of the violation.
 - b. The specific corrective action taken, the results achieved, and the date the violation was resolved to return to compliance.
 - c. How these corrective actions will prevent similar violations from recurring.

COMPLIANCE NOTICE

Compliance with this **NOV/CO** is mandatory. If TSOR fails to comply with this **NOV/CO**, the Director may seek judicial relief in state district court as provided by law.

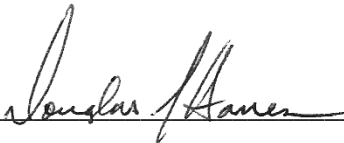
ASSESSMENT OF CIVIL PENALTY

Under Utah Code §19-6-721(1), a person who violates any provision of this part or any order, permit, rule, or other requirement issued or adopted under this part is subject in a civil proceeding to a penalty of not more than \$10,000 per day for each day of violation, in addition to any fine otherwise imposed for violation of this part.

OPPORTUNITY FOR HEARING

This NOTICE OF VIOLATION AND COMPLIANCE ORDER is effective immediately and shall become final unless Tri State Oil Reclaimers, Inc administratively contests it. Failure to contest this NOTICE OF VIOLATION AND COMPLIANCE ORDER in the manner and within the time period prescribed by Utah Admin. Code R305-7-303 constitutes a waiver of any right of administrative contest, reconsideration, review, or judicial appeal.

Dated this 7th day of September 2022

By: 

Douglas J. Hansen, Director
Division of Waste Management and Radiation Control

Exhibit A

Summary List: Used oil BOLs/Invoices not submitted to the Division for deliveries of used oil to a used oil processor facility in American Fork Utah

<u>Date</u> BOL/Invoice NO.	<u>TSOR</u> BOL/Invoice NO.
September 9, 2020	17823
November 5, 2020	21070
November 10, 2020	21071
November 11, 2020	21240
November 12, 2020	2139
November 16, 2020	21112
November 16, 2020	21240
November 20, 2020	16593
November 24, 2020	21242
November 30, 2020	21076
December 1, 2020	21243
December 3, 2020	17142
December 3, 2020	21077
December 7, 2020	21244
December 9, 2020	21246
December 15, 2020	21245
December 15, 2020	21080
December 21, 2020	21247
December 21, 2020	21245
December 21, 2020	21081
December 28, 2020	21,082
December 30, 2020	17150
January 4, 2021	21083
January 5, 2021	21249
January 7, 2021	21048
January 12, 2021	21250
January 12, 2021	17152
January 13, 2021	17153
January 14, 2021	21251
January 19, 2021	21252
January 21, 2021	2153
January 26, 2021	21254
January 27, 2021	12768
January 28, 2021	12769
February 1, 2021	21091
February 8, 2021	12771
February 23, 2021	17155
March 8, 2021	17157
March 11, 2021	17158
April 27, 2021	17736

Exhibit B

Summary List: This list provides documentation (most but not all) to support the violations cited in Findings ¶19, ¶26, ¶27 and ¶38.

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry (unless otherwise noted)</u>	<u>Non-Compliance Documentation</u> <u>NOV Violations</u> <u>[Includes Notes for Significant Events and Timesheet Entries]</u>
LJL	January 21, 2020	10 hours transfer oil to Keigley from stakes (<i>sic</i>) parsons <i>Note: Driver LJL refers to the TSOR Genola Facility as "Keigley" on his timesheets as the facility is on Staker's "Keigley Quarry" facility, and he referred to the unpermitted TSOR tank farm located on Staker's West Haven, Utah facility as "stakes (sic) parson."</i>	¶19.2.2: Failure to submit used oil shipment records: From a TSOR Utah facility/tank/tanker truck (tanker) (permitted or unpermitted) to TSOR's Utah Genola Facility.
LJL	January 22, 2020	10 hours transfer oil	¶19.2.2: Failure to submit used oil shipment records. ¶26.1: Failure to report shipments of used oil on TSOR's 2020 Used Oil Transporter Annual Report: Between a TSOR Utah facility/tank/tanker (permitted and/or unpermitted).
LJL	January 23, 2020	10 hours trans. Oil	¶19.2.2: Failure to submit used oil shipment records. ¶26.1: Failure to report shipments of used oil on TSOR's 2020 Used Oil Transporter Annual Report: Between a TSOR Utah facility/tank/tanker (permitted and/or unpermitted).
<i>Note: On February 10, 2020, TSOR submitted Tank Inspection Reports to the Division documenting that the unpermitted used oil storage Tanks 21-28 were in place and inspected at TSOR's tank farm, located on the property owned by Staker, at 2400 South 1900 West, West Haven, Utah. The secondary containment was completed and the fence for the tank farm was in place.</i>			
TT	March 27, 2020	Working OW (oil/water) TSO/Staker Tank Farm (6 hours) <i>Note: Driver TT refers to the TSOR's Genola Facility as "Keigley" on his timesheet.</i>	¶27.2: Used oil storage longer than 24 hours without a Permit in the TSOR-Unpermitted West Haven Tanks.
TT	April 4, 2020	Move oil truck pup - storage tanks	¶19.2.2: Failure to submit used oil shipment records. ¶26.1: Failure to report shipments of used oil on TSOR's 2020 Used Oil Transporter Annual Report: From a TSOR Utah tanker to a TSOR facility tank (permitted and/or unpermitted).
TT	April 6, 2020	load wet oil <i>Note: Driver TT did not claim mileage related to loading this used oil, thus, assumption that the used oil was collected from a tank in Utah.</i>	¶19.2.2: Failure to submit used oil shipment records.

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry (unless otherwise noted)</u>	<u>Non-Compliance Documentation</u> <u>NOV Violations</u> [Includes Notes for Significant Events and Timesheet Entries]
TT	April 7, 2020	346 miles ... Transport wet oil Rocks Springs	<p>¶19.2.2: Failure to submit used oil shipment records: From a TSOR Utah facility tank/tanker (permitted and/or unpermitted) to TSOR’s Rock Springs, Wyoming facility (Rock Springs Facility).</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From a TSOR Utah facility/tank/tanker (permitted and/or unpermitted) to TSOR’s Rock Springs Facility.</p>
FA	April 15, 2020	BLUFFDALE, UT PHOENIX 711 MI @.40 LOAD UNLOAD	<p>¶19.2.2: Failure to submit used oil shipment records: From a TSOR Utah facility/tank/tanker (permitted or unpermitted) to a facility located in Arizona.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Annual Used Oil Transporter Report: From a TSOR Utah facility/tank/tanker (permitted and/or unpermitted) to a facility located in Arizona.</p>
FA	April 15, 2020	LOAD/UNLOAD 715 @.40 MI BLUFFDALE → PHOENIX	<p>¶19.2.2: Failure to submit used oil shipment records: From a TSOR Utah facility/tank/tanker (permitted or unpermitted) to a facility located in Arizona.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Annual Used Oil Transporter Report: From a TSOR Utah facility/tank/tanker (permitted and/or unpermitted) to a facility located in Arizona.</p>
LJL	April 15, 2020	10 hours deliver frac to cedar city	<p><i>Note: TSOR placed the TSOR-Cedar City Tank on property owned by Jenkins Oil Company located at 1100 West 560 North Industrial Road, Cedar City, Utah.</i></p>
JDL	April 17, 2020	Cedar City Run 7 hours	<p>¶19.2.2: Failure to submit used oil shipment records.</p>
TT	April 17, 2020	Transport Rock Springs 4 axle pup & truck to Keigley Unload " " " "	<p>¶19.2.2: Failure to submit used oil shipment records: From TSOR’s Rock Springs Facility to TSOR’s Utah Genola Facility.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From TSOR’s Rock Springs Facility to TSOR’s Utah Genola Facility.</p>

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry (unless otherwise noted)</u>	<u>Non-Compliance Documentation</u> <u>NOV Violations</u> [Includes Notes for Significant Events and Timesheet Entries]
FA	April 21, 2020	BLUFFDALE, UT → PHOENIX AZ LOAD UNLOAD	<p>¶19.2.2: Failure to submit used oil shipment records: From a TSOR Utah facility/tank/tanker (permitted or unpermitted) to a facility located in Arizona.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Annual Used Oil Transporter Report: From a TSOR Utah facility/tank/tanker (permitted and/or unpermitted) to a facility located in Arizona.</p>
LJL	April 22, 2020	10 hours shop transfer oil frac tanks	<p>¶19.2.2: Failure to submit used oil shipment records: Transfer of used oil between TSOR’s Utah facility/tank/tanker (permitted and/or unpermitted).</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Annual Used Oil Transporter Report: Transfer of used oil between TSOR’s Utah facility/tank/tanker (permitted and/or unpermitted).</p>
TT	May 7, 2020	Transport Oil TSO Cedar City TNK Unload " " "	<p>¶19.2.2: Failure to submit used oil shipment records: From a TSOR Utah facility/tank/tanker (permitted and/or unpermitted) to the unpermitted TSOR-Cedar City Tank.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Annual Used Oil Transporter Report: From a TSOR Utah facility/tank/tanker (permitted and/or unpermitted) to the unpermitted TSOR-Cedar City Tank.</p>
TT	May 8, 2020	Transport Oil TSO Cedar City TNK Unload " " " <i>Note: As of May 8, 2020, TSOR had stored used oil longer than 24-hours in the TSOR-Cedar City Tank (see ¶27.2).</i>	<p>¶19.2.2: Failure to submit used oil shipment records: From a TSOR facility/tank/tanker (permitted and/or unpermitted) to the unpermitted TSOR-Cedar City Tank.</p> <p>¶27.2: Used oil storage longer than 24 without a Permit in the unpermitted TSOR-Cedar City Tank.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From a TSOR Utah facility/tank/tanker (permitted and/or unpermitted) to the unpermitted TSOR-Cedar City Tank.</p>

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry (unless otherwise noted)</u>	<u>Non-Compliance Documentation</u> <u>NOV Violations</u> [Includes Notes for Significant Events and Timesheet Entries]
FA	May 12, 2020	LOAD OGDEN, LOAD (2) MOVED BLUFFDALE → OGDEN → HY 53 WYOMING UNLOAD BLUFFDALE	<p>¶19.2.2: Failure to submit used oil shipment records : From the unpermitted TSOR-Triple H Tank to a Kilgore facility in Rock Springs, Wyoming.</p> <p>¶27.3: Used oil storage longer than 24 hours in the TSOR-Triple H Tank.</p> <p>¶26.1: Failure to report shipments of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the unpermitted TSOR-Triple H Tank to a Kilgore facility in Rock Springs, Wyoming.</p>
FA	May 12, 2020	TSOR driver FA delivered 6,997 gallons of used oil to Kilgore’s facility in Rock Springs, Wyoming, on BOL #12070, dated May 12, 2020. TSOR certified that this oil met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 20010891-001A for a composite oil sample collected on January 14, 2020, from the TSOR Genola Facility tanks 7-12.	<p>¶38.4.3: TSOR knowingly made false material statements on TSOR’s BOL# 12070, dated May 12, 2020, by recording on the BOL that the used delivered to Kilgore facility in Rock Springs Wyoming, was on-specification used oil from TSOR’s Genola Facility but FA’s timesheet entry on May 12, 2020, records that the used oil was collected from the unpermitted TSOR-Triple H Tank.</p>
<p>Note: Based on documentation (e.g., timesheet records, inspections findings, and a TSOR driver’s statement) obtained by the Division from June through August of 2020, TSOR stored used oil longer than 24-hours in the TSOR-Triple H Tank as of May 12, 2020. TSOR purchased the TSOR-Triple H Tank on February 20, 2020. The owner of Triple H Excavating (Triple H), located at 1668 South 1900 West, West Haven, Utah, stated to inspectors on June 24, 2021, that he had unloaded the TSOR-Triple H Tank for TSOR and placed it on his property sometime in the first months of 2020. Google Earth Images, dated May 15, 2020, also document that the TSOR-Triple H Tank was on Triple H’s property.</p>			
TT	May 12, 2020	load 4 axle pup Ogden 9500 gals	<p>¶19.2.2: Failure to submit used oil shipment records: From either the unpermitted TSOR-Unpermitted West Haven Tanks or the TSOR-Triple H Tank.</p> <p>¶27.3: Used oil storage longer than 24 hours in either the TSOR-Unpermitted West Haven Tanks or the TSOR- Triple H Tank.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From either the unpermitted TSOR-Unpermitted West Haven Tanks or the TSOR-Triple H Tank.</p>

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry (unless otherwise noted)</u>	<u>Non-Compliance Documentation</u> <u>NOV Violations</u> [Includes Notes for Significant Events and Timesheet Entries]
TT	May 13, 2020	Transport Oil Vernal to Rock Springs Unload Truck + 4 axel (sic) pup Rock Springs 9500 gals Load " " " 9000 gals	<p>¶19.2.2: Failure to submit used oil shipment records: From either the unpermitted TSOR-Unpermitted West Haven Tanks or the TSOR-Triple H Tank to the TSOR Rock Springs Facility.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From either the unpermitted TSOR-Unpermitted West Haven Tanks or the TSOR-Triple H Tank to the TSOR Rock Springs Facility.</p>
TT	May 14, 2020	Transport R.S to Keigley Unload Truck 4 axel (sic) pup Keigley 9000 gals	<p>¶19.2.2: Failure to submit used oil shipment records: From the TSOR Rock Springs Facility to the TSOR Utah Genola Facility.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the TSOR Rock Springs Facility to the TSOR Utah Genola Facility.</p>
LJL	May 15, 2020	10 hours. Work on Ogden site	
TT	May 15, 2020	Load TSO Rock Springs 4 axel (sic) & Truck 11000 gals Transport Cheyenne Unload " " 11000 gals wet oil Load DIY oil Truck + 4 axel (sic) Pup Transport to Ogden	<p>¶19.2.2: Failure to submit used oil shipment records: From TSOR’s Cheyenne Facility to either the unpermitted TSOR-Unpermitted West Haven Tanks or the TSOR-Triple H Tank.</p> <p>¶27.3: Used oil storage longer than 24 hours in either the TSOR-Unpermitted West Haven Tanks or the TSOR- Triple H Tank.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From TSOR’s Cheyenne Facility to either the unpermitted TSOR-Unpermitted West Haven Tanks or the TSOR-Triple H Tank.</p>
LJL	May 23, 2020	10 hours. Ogden site	
TT	May 27, 2020	Load oil TSO Rocks Springs 4 axle pup	

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry (unless otherwise noted)</u>	<u>Non-Compliance Documentation</u> <u>NOV Violations</u> [Includes Notes for Significant Events and Timesheet Entries]
TT	May 28, 2020	Transport oil Rock Springs to Cedar City TSO TNK	<p>¶19.2.2: Failure to submit used oil shipment records: From the TSOR Rock Springs Facility to the unpermitted TSOR-Cedar City Tank.</p> <p>¶27.2: Used oil storage longer than 24 without a Permit in the unpermitted TSOR-Cedar City Tank.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the TSOR Rock Springs Facility to the unpermitted TSOR-Cedar City Tank.</p>
TT	May 29, 2020	Load Truck 4-axle pup wet oil to transport to Rock Springs <i>Note: TSOR’s Genola Facility Tank 12 log records that driver TT collected 4200 gallons of used oil from Tank 12 on May 29, 2020.</i>	<p>¶19.2.2: Failure to submit used oil shipment records: From a TSOR facility/tank/tanker (permitted and/or unpermitted) to the TSOR Rock Springs Facility.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From a TSOR Utah facility/tank/tanker (permitted and/or unpermitted) to the TSOR Rock Springs Facility.</p>
LJL	June 1, 2020	10 hours Ogden tanks	
LJL	June 2, 2020	10 hours Ogden	
LJL	June 3, 2020	10 hours Ogden	
<p>Note: On June 5, 2020, TSOR’s Utah Manager provided tank inspection reports(via email) to the Division for tanks 29 and 30, at the TSOR’s tank farm located at 2400 South 1900 West, West Haven, Utah. TSOR’s Utah Manager stated that “This is the tank inspections for the last 2 tanks in the Ogden tank farm. We are waiting for the road to be improved but everything is in place and ready for a site inspection.” Which documents that construction of TSOR’s tank farm 2400 South 1900 West, West Haven, Utah, was completed as of June 5, 2020.</p>			
JDL	June 10, 2020	2 hours Ogden tank farm	
LJL	June 10, 2020	10 hours Pump water out of containment Ogden	
TT	June 15, 2020	Load <i>Note: The TSOR Genola Facility tank logs do not record that driver TT collected a load of used oil from the TSOR Genola Facility.</i>	

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry (unless otherwise noted)</u>	<u>Non-Compliance Documentation</u> <u>NOV Violations</u> [Includes Notes for Significant Events and Timesheet Entries]
TT	June 16, 2020	Transport wet oil to Rock Springs Unload wet oil R.S TSO Load Dry Oil TSO Transport Kiegley (sic) <i>Note: TSOR driver TT records the average mileage traveled around 350 miles for transport of oil between TSOR's Rock Springs Facility and TSOR's Genola Facility. Facility. Driver TT traveled just over 350 miles on June 16, 2020.</i>	<p>¶19.2.2: Failure to submit used oil shipment records: (1) From a TSOR facility/tank/tanker (permitted and/or unpermitted) to the TSOR Rock Springs Facility; (2) From the TSOR Rock Springs Facility to the TSOR Utah Genola Facility.</p> <p>¶26.1: Failure to report shipment of used oil on TSOR's 2020 Used Oil Transporter Annual Report: (1) From a TSOR Utah facility/tank/tanker (permitted and/or unpermitted) to the TSOR Rock Springs Facility; and (2). From the TSOR Rock Springs Facility to the TSOR Utah Genola Facility.</p>
TT	June 17, 2020	Unload Kiegley (sic) Load wet oil Transport wet oil TSO R.S Unload " " Load Dry Oil R.S. Transport Dry oil Kiegley (sic) Unload " "	<p>¶19.2.2: Failure to submit used oil shipment records: (1) From the TSOR Genola Facility to the TSOR Rock Springs Facility; (2) From the TSOR Rock Springs Facility to the TSOR Utah Genola Facility.</p> <p>¶26.1: Failure to report shipment of used oil on TSOR's 2020 Used Oil Transporter Annual Report: (1) From the TSOR Genola Facility to the TSOR Rock Springs Facility; and (2). From the TSOR Rock Springs Facility to the TSOR Utah Genola Facility.</p>
TT	June 18, 2020	Unload Keigley Unload Keigley <i>Note: TSOR's collection records record that driver TT collected 8,270 gallons of used oil from generators on June 18, 2020. TSOR's Genola tank logs) record driver TT delivered 5,500 gallons of used oil to tank 1 and 4,340 of used oil to tank 4 on June 18, 2020.</i>	
LJL	June 18, 2020	10 hours tank farm Ogden	¶
FA	June 22, 2020	SLC → OGU LOAD → TWIN Falls UNLOAD → OGU LOAD → SLC <i>Note: TSOR failed to submit driver TT's timesheet records from June 19, 2020 through June 25, 2020. Driver FA submitted a copy of his timesheets for entries made from June 21, 2020 through June 25, 2020.</i>	<p>¶19.2.2: Failure to submit used oil shipment records : From the unpermitted TSOR-Triple H Tank to a Staker facility in Idaho.</p> <p>¶27.3: Used oil storage longer than 24 hours in the TSOR-Triple H Tank.</p> <p>¶26.1: Failure to report shipments of used oil on TSOR's 2020 Used Oil Transporter Annual Report: From the TSOR-Triple H Tank to a Staker facility in Idaho.</p>

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry (unless otherwise noted)</u>	<u>Non-Compliance Documentation</u> <u>NOV Violations</u> [Includes Notes for Significant Events and Timesheet Entries]
FA	June 22, 2020	TSOR driver FA delivered 6,074 gallons of used oil to Staker’s facility in Twin Falls, Idaho, on BOL 17578, dated June 22, 2020. TSOR certified that this oil met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 20050105-001A for a composite oil sample collected on May 1, 2020, from the Genola Facility tanks 1-6.	¶38.4.1: TSOR knowingly made false material statements on TSOR’s BOL 17578, dated June 22, 2020, by stating on the used oil BOL that the used oil delivered to Staker’s facility in Twin Falls, Idaho, was on-specification used oil from the TSOR Utah Genola Facility when it was collected from the unpermitted TSOR-Triple H Tank.
FA	June 23, 2020	SLC to OGU LOADX2 → KEMMERER (UNLOAD X2) → OGU LOADX2 → SLC <i>Note: TSOR failed to submit driver TT’s timesheet records from June 19, 2020 through June 25, 2020. Driver FA submitted a copy of his timesheets for entries made from June 21, 2020 through June 25, 2020.</i>	¶19.2.2: Failure to submit used oil shipment records : From the unpermitted TSOR-Triple H Tank to a Kilgore Companies (Kilgore) facility in Wyoming. ¶27.3: Used oil storage longer than 24 hours in the TSOR-Triple H Tank. ¶26.1: Failure to report shipments of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the TSOR-Triple H Tank to a Kilgore facility in Wyoming.
FA	June 23, 2020	TSOR driver FA delivered 10,221 gallons of used oil to Kilgore’s facility in Kemmerer, Wyoming, on a BOL, dated June 22, 2020. TSOR certified that this oil met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 20050105-001A for a composite oil sample collected on May 1, 2020, from the Genola Facility tanks 1-6.	¶38.4.1: TSOR knowingly made false material statements on a TSOR BOL, dated June 23, 2020, by stating on the used oil BOL that the used oil delivered to a Kilgore facility in Kemmerer, Wyoming, was on-specification used oil from the TSOR Utah Genola Facility tanks when TSOR driver FA’s timesheet records that used oil was collected from the unpermitted TSOR Triple H Tank.
TT	June 23, 2020	Transport Ogden + Rock Springs wet oil Unload " " "	¶19.2.2: Failure to submit used oil shipment records: From the TSOR Rock Springs Facility to either the unpermitted TSOR-Unpermitted West Haven Tanks or the TSOR-Triple H Tank. ¶27.3: Used oil storage longer than 24 hours in either the TSOR-Unpermitted West Haven Tanks or the TSOR- Triple H Tank. ¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the TSOR Rock Springs Facility to either the unpermitted TSOR-Unpermitted West Haven Tanks or the TSOR-Triple H Tank.

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry (unless otherwise noted)</u>	<u>Non-Compliance Documentation</u> <u>NOV Violations</u> [Includes Notes for Significant Events and Timesheet Entries]
FA	June 24, 2020	<p>SLC → MAESER (SHOP 2 HOURS AIR COND REPAIR) 226 MI @ 45 ¢ Grade Pay SLEEPER</p> <p><i>Note: TSOR failed to submit driver TT's timesheet records from June 19, 2020 through June 25, 2020. Driver FA submitted a copy of his timesheets for entries made from June 21, 2020 through June 25, 2020.</i></p>	
FA	June 25, 2020	<p>MAESER UNLOAD (X2) → SLC</p> <p><i>Note: TSOR failed to submit driver TT's timesheet records from June 19, 2020 through June 25, 2020. Driver FA submitted a copy of his timesheets for entries made from June 21, 2020 through June 25, 2020.</i></p>	<p>¶19.2.2: Failure to submit used oil shipment records : From the TSOR-Triple H Tank to Staker facility in Utah.</p> <p>¶27.3: Used oil storage longer than 24 hours in the TSOR-Triple H Tank.</p> <p>¶26.1: Failure to report shipments of used oil on TSOR's 2020 Used Oil Transporter Annual Report: From the TSOR-Triple H Tank to Staker facility in Utah.</p>
FA	June 25, 2020	<p>TSOR driver FA delivered 9,689 gallons of used oil to Staker's Burdick facility in Maeser, Utah, on a BOL, dated June 23, 2020. TSOR driver FA timesheet records that he actually delivered this load on June 25, 2020. TSOR certified that this oil met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 20050105-001A for a composite oil sample collected on May 1, 2020, from the Genola Facility tanks 1-6.</p>	<p>¶38.4.1: TSOR knowingly made false material statements on a TSOR BOL, dated June 23, 2020 (actually delivered on June 25, 2020), by stating on the used oil BOL that the used oil delivered to a the Staker facility in Maeser, Utah, was on-specification used oil from the TSOR Genola Facility tanks when it was collected from the unpermitted TSOR Triple H Tank.</p>
FA	June 26, 2020	<p>SLC → OGU (LOAD) TWIN FALLS ID (UNLOAD) → SLC</p>	<p>¶19.2.2: Failure to submit used oil shipment records : From the TSOR-Triple H Tank to Staker facility in Idaho.</p> <p>¶27.3: Used oil storage longer than 24 hours in the TSOR-Triple H Tank.</p> <p>¶26.1: Failure to report shipments of used oil on TSOR's 2020 Used Oil Transporter Annual Report: From the TSOR-Triple H Tank to Staker facility in Idaho.</p>

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry (unless otherwise noted)</u>	<u>Non-Compliance Documentation</u> <u>NOV Violations</u> [Includes Notes for Significant Events and Timesheet Entries]
FA	June 26, 2020	TSOR driver FA delivered 6,140 gallons of used oil to Staker’s facility in Twin Falls, Idaho, on BOL# 17581, dated June 26, 2020. TSOR certified that this oil met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 20060464-001A for a composite oil sample collected on June 4, 2020, from the Genola Facility tanks 7-12.	¶38.4.1: TSOR knowingly made false material statements on a TSOR BOL#17581, dated June 26, 2020, by stating on the used oil BOL that the used oil delivered to a the Staker facility in Twin Falls, Idaho, was on-specification used oil from the TSOR Genola Facility tanks when it was collected from the unpermitted TSOR-Triple H Tank.
SB	July 7, 2020	1 load ... 1 unload Frack (sic) tank 514 Frack (sic) tank UT, tank Cedar City Frack (sic) tank ... Frack (sic) tank labor 1 hour	¶19.2.2: Failure to submit used oil shipment records: From a TSOR Utah facility/tank/tanker (permitted or unpermitted) to the TSOR-Cedar City Tank. ¶27.2: Used oil storage longer than 24 without a Permit in the unpermitted TSOR-Cedar City Tank. ¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Annual Used Oil Transporter Report: From a TSOR Utah facility/tank/tanker (permitted and/or unpermitted) to the TSOR-Cedar City Tank.
SB	July 8, 2020	Frack (sic) tank 514 ... Frack (sic) tank UT, tank Cedar City Frack (sic) tank Frack (sic) tank labor 1 hour	
FA	July 13, 2020	SUGAR CITY ID (UNLOAD) → OGDEN, UT (LOAD) → GREEN RIVER, WY (UNLOAD) → ROCK SPRINGS WY (LOAD) → SLEEPER → MAESER SLEEPER	¶19.2.2: Failure to submit used oil shipment records : From the unpermitted TSOR-Triple H Tank to a Kilgore facility in Wyoming. ¶27.3: Used oil storage longer than 24 hours in the TSOR-Triple H Tank. ¶26.1: Failure to report shipments of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the TSOR-Triple H Tank to a Kilgore facility in Wyoming.

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry</u> (unless otherwise noted)	<u>Non-Compliance Documentation</u> <u>NOV Violations</u> [Includes Notes for Significant Events and Timesheet Entries]
FA	July 13, 2020	TSOR driver FA delivered 3,510 gallons of used oil to a Kilgore facility in Green River, Wyoming, on BOL# 17588, dated July 13, 2020. TSOR certified that this oil met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 20060464-001A for a composite oil sample collected on June 4, 2020, from the Genola Facility tanks 7-12.	¶19.2.2: Failure to submit used oil shipment records : From the TSOR Rock Springs Facility to a Staker facility in Utah. ¶26.1: Failure to report shipments of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the TSOR Rock Springs Facility to the Staker Burdick facility in Maeser, Utah.
FA	July 14, 2020	ROCK SPRINGS WY → MAESER, UT (UNLOAD) → SLC → KIEGLEY (sic) (LOAD) → RIFLE CO (SLEEPER)	¶38.4.1: TSOR knowingly made false material statements on a TSOR BOL#17588, dated July 13, 2020, by stating on the used oil BOL that the used oil delivered to a Kilgore facility in Green River, Wyoming, was on-specification used oil from the TSOR Genola Facility tanks when it was collected from the TSOR-Triple H Tank.
FA	July 14, 2020	TSOR driver FA delivered 6,330 gallons of used oil to Staker’s Burdick facility in Maeser, Utah, on BOL 17589, dated July 14, 2020. TSOR certified that this oil met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 20060464 -001A for a composite oil sample collected on June 6, 2020 from the Genola Facility tanks 7-12.	¶38.4.1: TSOR knowingly made false material statements on TSOR’s BOL 17589. dated July 14, 2020, by stating on the used oil BOL that the used oil delivered to the Staker Burdick facility in Maeser, Utah was on-specification used oil from the TSOR Utah Genola Facility when it was collected from TSOR’s Rock Springs Facility.
SB	July 14, 2020	Miles 525 ... Frack (sic) tank Cedar City labor 1 HR Frack (sic) tank ... Frack (sic) tank Labor	
FA	July 15, 2020	RIFLE CO (UNLOAD) → SLC	¶19.2.2: Failure to submit used oil shipment records: From TSOR’s Utah Genola Facility to TSOR’s Rifle Facility. ¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Annual Used Oil Transporter Report: Transfer of used oil between TSOR’s Utah Genola Facility to TSOR’s Rifle Facility.
LJL	July 20, 2020	10 hours Pump water out of containment Ogden	

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry (unless otherwise noted)</u>	<u>Non-Compliance Documentation</u> <u>NOV Violations</u> [Includes Notes for Significant Events and Timesheet Entries]
FA	July 20, 2020	SLC KIEGLEY (sic) → LYNN DYL, UT UNLOAD → IDAHO FALLS ID. SLEEPER/GRADE PAY 485 MI @45¢ <i>Note: TSOR driver FA delivered 6,515 gallons of used oil to W.W. Clyde's Lynndyl, Utah facility on BOL #17591.</i>	
FA	July 22, 2020	IDAHO FALLS (UNLOAD) → OGDEN (LOAD 2) KIEGLEY (sic) (UNLOAD 2) → SLC	<p>19.2.2: Failure to submit used oil shipment records : From the unpermitted TSOR-Triple H Tank to TSOR's Genola Facility.</p> <p>¶27.3: Used oil storage longer than 24 hours in the TSOR-Triple H Tank.</p> <p>¶26.1: Failure to report shipments of used oil on TSOR's 2020 Used Oil Transporter Annual Report: From the TSOR-Triple H Tank to TSOR's Genola Facility.</p>
LJL	July 29, 2020	10 hours Ogden tank farm	
LJL	August 3, 2020	10 hours Ogden tank farm	
FA	August 10, 2020	SLC → OGDEN (LOAD 2) → TWIN FALLS ID (UNLOAD 2) → SLC	<p>¶19.2.2: Failure to submit used oil shipment records : From the unpermitted TSOR-Triple H Tank to Staker facility in Twin Falls, Idaho.</p> <p>¶27.3: Used oil storage longer than 24 hours in the TSOR-Triple H Tank.</p> <p>¶26.1: Failure to report shipments of used oil on TSOR's 2020 Used Oil Transporter Annual Report: From the unpermitted TSOR-Triple H Tank to Staker facility in Twin Falls, Idaho.</p>
FA	August 10, 2020	TSOR driver FA delivered 9674 gallons of used oil to Staker's facility in Twin Falls, Idaho, on a BOL, dated August 10, 2020. TSOR certified that this oil met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 20070192-001A for a composite oil sample collected on June 30, 2020 from the Genola Facility tanks 1-6.	<p>¶38.4.1: TSOR knowingly made false material statements on a TSOR's BOL, dated August 10, 2020, by stating on the used oil BOL that the used oil delivered to Staker's facility in Twin Falls, Idaho, was on-specification used oil from the TSOR Utah Genola Facility when it was collected from the TSOR-Triple H Tank.</p>

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry</u> (unless otherwise noted)	<u>Non-Compliance Documentation</u> NOV Violations [Includes Notes for Significant Events and Timesheet Entries]
FA	August 14, 2020	SLC → KIEGLEY (<i>sic</i>) (LOAD 2) → ROCK SPRINGS WY (UNLOAD 2) → SLC	<p>19.2.2: Failure to submit used oil shipment records: From the TSOR Genola Facility to the TSOR Rock Springs Facility.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the TSOR Genola Facility to the TSOR Rock Springs Facility.</p>
FA	August 17, 2020	SLC → KIEGLEY (<i>sic</i>) (LOAD 2) → Delta (UNLOAD 2) → KIEGLEY (<i>sic</i>) (LOAD 2) → SLC	
FA	August 18, 2020	SLC → ROCK SPRINGS WY (UNLOAD 2) → KIEGLEY (<i>sic</i>) (LOAD 2) → SLC	<p>¶19.2.2: Failure to submit used oil shipment records: From the TSOR Genola Facility to the TSOR Rock Springs Facility.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the TSOR Genola Facility to the TSOR Rock Springs Facility.</p>
TT	August 19, 2020	Delivery Western Rock Scenic Valley From Rock Springs Unload “.....”.....”	<p>19.2.2: Failure to submit used oil shipment records: From the TSOR Rock Springs Facility to the Staker facility located in Arizona.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the TSOR Rock Springs Facility to the Staker facility located in Arizona.</p>
TT	August 20, 2020	TSOR driver TT delivered 6,090 gallons of used oil to a Staker’s facility in Littlefield, Arizona, on BOL #14175, dated August 20, 2020. TSOR certified that this oil met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 20080450-001A, for an oil sample collected on August 11, 2020, from TSOR’s Genola Facility tanks 7-12.	<p>¶38.4.1: TSOR knowingly made false material statements on a TSOR’s BOL # 14175, dated August 20, 2020, by stating on the BOL that the used oil delivered to Staker’s facility in Littlefield, Arizona, was on-specification used oil from the TSOR Utah Genola Facility, but TT’s timesheet entry on August 19, 2020, records that the used oil was collected from the TSOR Rock Springs Facility in Wyoming.</p>

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry (unless otherwise noted)</u>	<u>Non-Compliance Documentation</u> <u>NOV Violations</u> <u>[Includes Notes for Significant Events and Timesheet Entries]</u>
FA	August 23, 2020	SLC → KEIGLEY (LOAD 2) → ROCK SPRINGS (LOAD) → CHEYENNE (UNLOAD 2) (LOAD 2)	<p>¶19.2.2: Failure to submit used oil shipment records: From the TSOR-Genola Facility to TSOR’s Cheyenne Facility.</p> <p>¶26.1: Failure to report shipments of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the TSOR-Genola Facility to TSOR’s Cheyenne Facility.</p>
FA	August 25, 2020	SLC→ KEIGLEY (LOAD) → RIFLE (UNLOAD)	<p>¶19.2.2: Failure to submit used oil shipment records: From TSOR’s Utah Genola Facility to TSOR’s Rifle Facility.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Annual Used Oil Transporter Report: Transfer of used oil between TSOR’s Utah Genola Facility to TSOR’s Rifle Facility.</p>
FA	September 1, 2020	SLC → SUGAR CITY ID (UNLOAD) → OGDEN (LOAD) → SLC	<p>¶27.3: Used oil storage longer than 24 hours in the TSOR-Triple H Tank.</p>
FA	September 2, 2020	OFF	
FA	September 3, 2020	<p>SLC → KEIGLEY (LOAD) → GARFIELD LANDFILL (UNLOAD 2) → SLC</p> <p><i>Note: Driver FA collected one load from the TSOR-Triple H Tank on September 1, 2020, and one load from the TSOR Genola Facility on September 3, 2020, and delivered both loads to a Staker facility located next to the Garfield County Landfill in Utah.</i></p>	<p>¶19.2.2: Failure to submit used oil shipment records : From the unpermitted TSOR-Triple H Tank and to a Staker facility in Utah.</p> <p>¶27.3: Used oil storage longer than 24 hours in the TSOR-Triple H Tank.</p> <p>¶26.1: Failure to report shipments of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the unpermitted TSOR-Triple H Tank to Staker facility in Utah.</p> <p>¶27.4: Used oil storage in a TSOR tanker for longer than 24 hours at the TSOR Utah Tank Drop Yard.</p>

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry (unless otherwise noted)</u>	<u>Non-Compliance Documentation</u> <u>NOV Violations</u> [Includes Notes for Significant Events and Timesheet Entries]
FA	September 3, 2020	TSOR driver FA delivered 9,347 gallons of used oil to Staker’s facility in located next to the Garfield County Landfill, in Utah, on a BOL#13957, dated September 3, 2020. TSOR certified that this oil met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 20080450-001A for a composite oil sample collected on August 11, 2020 from the Genola Facility tanks 7-12.	¶38.4.1: TSOR knowingly made false material statements on a TSOR’s BOL # 13957, dated September 3, 2020, by stating on the BOL that the used oil delivered to Staker’s facility in located next to the Garfield County Landfill in Utah, was on-specification used oil from the TSOR Utah Genola Facility. Driver FA collected some of the used oil delivered from the from the TSOR-Triple H Tank.
<i>Note: TSOR driver FA parked a TSOR tanker loaded with used oil at the unpermitted TSOR-Utah Tank drop yard for longer than 24 hours between September 1, 2020 and September 3, 2020.</i>			
FA	September 7, 2020	CHEYENNE (UNLOAD 2) (LOAD 2) → SLC	¶19.2.2: Failure to submit used oil shipment records : From the TSOR’s Cheyenne Facility to the TSOR-Utah Tank drop yard. ¶26.1: Failure to report shipments of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the TSOR’s Cheyenne Facility to the TSOR-Utah Tank drop yard.
FA	September 8, 2020	OFF	
FA	September 9, 2020	SLC → KNOSH (sic) (UNLOAD2) → KEIGLEY (LOAD 2) → SLC	¶19.2.2: Failure to submit used oil shipment records : From the unpermitted TSOR-Utah Tank drop yard a W.W. Clyde facility in Utah. ¶26.1: Failure to report shipments of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the unpermitted TSOR-Utah Tank drop yard a W.W. Clyde facility in Utah. ¶27.4: Used oil storage in a TSOR tanker for longer than 24 hours at the TSOR Utah Tank Drop Yard.
<i>Note: TSOR driver FA parked a TSOR tanker loaded with used oil at the unpermitted TSOR-Utah Tank drop yard for longer than 24 hours between September 7, 2020 and September 9, 2020.</i>			

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry</u> (unless otherwise noted)	<u>Non-Compliance Documentation</u> <u>NOV Violations</u> [Includes Notes for Significant Events and Timesheet Entries]
FA	September 10, 2020	SLC → KEIGLEY (UNLOAD 2) (LOAD 2) → CHEYENNE (UNLOAD 2) (LOAD 2)	<p>¶19.2.2: Failure to submit used oil shipment records: From the TSOR’s Genola Facility to TSOR’s Cheyenne Facility.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the TSOR’s Genola Facility to TSOR’s Cheyenne Facility.</p>
FA	September 14, 2020	BRYCE HOT PLANT (UNLOAD 2) → KEIGLEY (LOAD 2) → SLC	
FA	September 15, 2020	OFF	
LJL	September 15, 2020	10 hours shop Ogden	
FA	September 16, 2020	SLC → BRYCE HOT PLANT (UNLOAD 2) → KEIGLEY (LOAD 2) → SLC → PAYSON GRADE PAY, SLEEPER PAY	<p>¶19.2.2: Failure to submit used oil shipment records : From the unpermitted TSOR-Utah Tank Drop Yard to a Staker facility in Utah.</p> <p>¶26.1: Failure to report shipments of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the unpermitted TSOR-Utah Tank Drop Yard to A Staker facility in Utah.</p> <p>¶27.4: Used oil storage in a TSOR tanker for longer than 24 hours at the TSOR Utah Tank drop yard.</p>
<p>Note: TSOR driver FA parked a TSOR tanker loaded with used oil at the unpermitted TSOR-Utah Tank drop yard for longer than 24 hours between September 14, 2020 and September 16, 2020.</p>			
FA	September 17, 2020	PAYSON → MAESER (UNLOAD 2) → KEIGLEY (LOAD 2) → SLC 1 HR WORK @ MAESER (WET OIL) 1 HR WORK @ KEIGLEY (DIRTY OIL)	

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry (unless otherwise noted)</u>	<u>Non-Compliance Documentation</u> <u>NOV Violations</u> [Includes Notes for Significant Events and Timesheet Entries]
FA	September 18, 2020	SLC → OGDEN 1 HR WORK (WET OIL) → TWIN FALLS (UNLOAD 2) <i>Note: Driver FA refers to working “Wet Oil “at Keigley on September 17, 2020 but refers to working “Wet Oil” at Ogden on September 18, 2020.</i>	¶27.3: Used oil storage longer than 24 hours in the TSOR-Triple H Tank.
FA	September 21, 2020	SLC → BLUFFDALE (TRADE EQUIPMENT) → AMERICAN FORK (LOAD 2)	¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the TSOR’s Genola Facility to a used oil processor in Utah.
FA	September 22, 2020	SLC → BRYCE HOT PLANT (UNLOAD 2) → KEIGLEY → SLC	¶19.2.1: Failure to submit used oil shipment records: From a used oil processor in American Fork, Utah to a Staker facility in Utah. ¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From a used oil processor in American Fork, Utah to a Staker facility in Utah.
FA	September 23, 2020	SLC → OGDEN (LOAD 2) → TWIN FALLS (UNLOAD 2) → BARRETTS MT	¶19.2.2: Failure to submit used oil shipment records: From the unpermitted TSOR-Triple H Tank to Staker facility in Idaho. ¶27.3: Used oil storage longer than 24 hours in the TSOR-Triple H Tank. ¶26.1: Failure to report shipments of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the unpermitted TSOR-Triple H Tank to Staker facility in Idaho.
FA	September 23, 2020	TSOR driver FA delivered 9,781 gallons of used oil to a Staker facility in Idaho Falls, Idaho, BOL 17617, dated September 23, 2020. TSOR certified that this oil met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 200990306-001A, for an oil sample collected on September 2, 2020, from TSOR’s Genola Facility tanks 1,5, and 6.	¶38.4.3: TSOR knowingly made false material statements on TSOR’s BOL#17617, dated September 23, 2020, by recording on the BOL that the used delivered to the Staker facility in Idaho Falls, Idaho, was on-specification used oil from TSOR’s Genola Facility but FA’s timesheet entry on September 23, 2020, records that the used oil was collected from the unpermitted TSOR-Triple H Tank.

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry (unless otherwise noted)</u>	<u>Non-Compliance Documentation</u> <u>NOV Violations</u> [Includes Notes for Significant Events and Timesheet Entries]
FA	September 25, 2020	TWIN FALLS → OGDEN (LOAD 2) → SLC	¶27.3: Used oil storage longer than 24 hours in the TSOR-Triple H Tank.
<i>Note: No timesheet entries were made by TSOR driver FA for September 26, 2020 or September 27, 2020.</i>			
FA	September 28, 2020	SLC → MAESER (ULOAD 2) → BLUFFDALE → KEIGLEY → SLC GRADE PAY 1 HR WORK TIME @ BLUFFDALE	<p>¶19.2.2: Failure to submit used oil shipment records: From the unpermitted TSOR-Triple H Tank to Staker’s Burdick facility in Maeser, Utah.</p> <p>¶26.1: Failure to report shipments of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the unpermitted TSOR-Triple H Tank to Staker’s Burdick facility in Maeser, Utah.</p> <p>¶27.4.: Used oil storage in a TSOR tanker for longer than 24 hours at the TSOR Utah Tank Drop Yard.</p>
FA	September 28, 2020	TSOR driver FA delivered 9,921 gallons of used oil to the Staker Burdick facility in Maeser, Utah, BOL #17619, dated September 28, 2020. TSOR certified that this oil met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 20091174-001A, for an oil sample collected on September 14, 2020, from tank (s) at TSOR’s Helena, Montana facility.	¶38.4.3: TSOR knowingly made false material statements on TSOR’s BOL #17619, dated September 28, 2020, by recording on the BOL that the used delivered to the Staker facility in Maeser, Utah was on-specification used oil from TSOR’s Helena Facility, but FA’s timesheet entry on September 25, 2020, records that the used oil was collected from the unpermitted TSOR-Triple H Tank.
<i>Note: TSOR driver FA parked a TSOR tanker loaded with used oil at the unpermitted TSOR-Utah Tank drop yard for longer than 24 hours between September 25, 2020 and September 28, 2020.</i>			
JDL	October 13, 2020	8 hours Ogden tank farm	
LJL	October 13, 2020	10 hours. Local run to Winnemucca	
JDL	October 14, 2020	8 hours Ogden tank farm	
LJL	October 14, 2020	10 hours Work in Ogden	

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry</u> (unless otherwise noted)	<u>Non-Compliance Documentation</u> <u>NOV Violations</u> [Includes Notes for Significant Events and Timesheet Entries]
TT	October 14, 2020	Transport St. George to TSO Cedar City tank	<p>¶19.2.2: Failure to submit used oil shipment records: From a TSOR facility/tank/tanker (permitted and/or unpermitted) to the unpermitted TSOR-Cedar City Tank.</p> <p>¶27.2: Used oil storage longer than 24 without a Permit in the unpermitted TSOR-Cedar City Tank.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From a TSOR tanker to the unpermitted TSOR-Cedar City Tank.</p>
TT	October 15, 2020	Load TSO Cedar TANK Transport oil Cedar City to Keigley Unload Kiegley (sic)	<p>¶19.2.2: Failure to submit used oil shipment records: From the unpermitted TSOR-Cedar City Tank to TSOR’s Genola Facility.</p> <p>¶27.2: Used oil storage longer than 24 without a Permit in the unpermitted TSOR-Cedar City Tank.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the unpermitted TSOR-Cedar City Tank to TSOR’s Genola Facility.</p>
TT	October 15, 2020	Load TSO Cedar Tank/Transport oil Cedar City - Keigley	<p>¶19.2.2: Failure to submit used oil shipment records: From the unpermitted TSOR-Cedar City Tank to TSOR’s Genola Facility.</p> <p>¶27.2: Used oil storage longer than 24 without a Permit in the unpermitted TSOR-Cedar City Tank.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the unpermitted TSOR-Cedar City Tank to TSOR’s Genola Facility.</p>
FA	October 18, 2020	SLC → OGDEN (LOAD) → TWIN FALLS	
FA	October 19, 2020	TWIN FALLS (UNLOAD) TRUCK REPAIR (5 HR)	<p>¶19.2.2: Failure to submit used oil shipment records: From the unpermitted TSOR-Triple H Tank to a Staker facility in Idaho.</p> <p>¶27.3: Used oil storage longer than 24 without a Permit in the unpermitted TSOR-Triple H Tank.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the unpermitted TSOR-Triple H Tank to a Staker facility in Idaho.</p>

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry (unless otherwise noted)</u>	<u>Non-Compliance Documentation</u> <u>NOV Violations</u> [Includes Notes for Significant Events and Timesheet Entries]
FA	October 19, 2020	TSOR driver FA delivered 6,510 gallons of used oil to the Staker facility in Twin Falls, Idaho, on BOL #17630, dated October 19, 2020. TSOR certified that this oil met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 20091404-001A, for an oil sample collected by the Rock Canyon Oil facility at their tank farm located in American Fork, Utah.	¶38.4.3: TSOR knowingly made false material statements on TSOR’s BOL# 17630, dated October 19, 2020, by recording on the BOL that the used delivered to the Staker facility in Twin Falls, Idaho, was on-specification used oil from the Rock Canyon Oil facility at their tank farm located in American Fork, Utah, but driver FA’s timesheet entry on October 18, 2020, records that the used oil was collected from the unpermitted TSOR-Triple H Tank.
JDL	October 19, 2020	10 hours Ogden tank farm	
<p>Note: The Director signed the TSOR West Haven Facility Used Oil Processor Permit on October 20, 2020. The Division emailed a copy of the signed permit to TSOR’s Utah Manager @ 1015 hours on October 20, 2020. The inspector called the TSOR’s Utah Manager, and he stated to the inspector that no oil was stored at the facility on October 20, 2020.</p> <p>The TSOR West Haven tank logs record that the first load (5,650 gallons) of used oil was delivered to Tank 22, on October 27, 2020. TSOR did not sample the used oil in tanks at the West Haven Facility until February 24, 2021. The laboratory analyzed this sample and reported the analytical results to TSOR on March 9, 2021.</p>			
FA	October 20, 2020	TWIN FALLS → OGDEN (LOAD) → MOAB (UNLOAD) → GREEN RIVER	<p>¶19.2.2: Failure to submit used oil shipment records: From the unpermitted TSOR-Triple H Tank to a Kilgore facility in Utah.</p> <p>¶27.3: Used oil storage longer than 24 without a Permit in the unpermitted TSOR-Triple H Tank.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the unpermitted TSOR-Triple H Tank to a Kilgore facility in Utah.</p>
FA	October 20, 2020	TSOR driver FA delivered 6,404 gallons of used oil to the Kilgore facility in Moab, Utah, on BOL #17631, dated October 20, 2020. TSOR certified that this oil met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 20101196-001A, for an oil sample collected on October 15, 2020, from the Genola Facility tanks 10, 11, and 12.	¶38.4.3: TSOR knowingly made false material statements on TSOR’s BOL# 17631, dated October 20, 2020, by recording on the BOL that the used delivered to the Kilgore facility in Moab, Utah, was on-specification used oil from the TSOR Genola Facility, but driver FA’s timesheet entry on October 20, 2020, records that the used oil was collected from the unpermitted TSOR-Triple H Tank.

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry</u> (unless otherwise noted)	<u>Non-Compliance Documentation</u> <u>NOV Violations</u> [Includes Notes for Significant Events and Timesheet Entries]
FA	October 21, 2020	GREEN RIVER → SLC (CHASE PARTS) → KEIGLEY (LOAD WET OIL) → ROCK CANYON (UNLOAD) → SLC 3 HRS WORKING WET OIL	<p>¶19.2.1: Failure to submit used oil shipment records: From the TSOR’s Genola Facility to a used oil processor in American Fork, Utah.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the TSOR’s Genola Facility to a used oil processor in Utah.</p>
FA	October 22, 2020	SLC → KEIGLEY (LOAD WET OIL) TO ROCK CANYON (UNLOAD WET OIL) → SLC + 1HR WET OIL	<p>¶19.2.1: Failure to submit used oil shipment records: From the TSOR’s Genola Facility to a used oil processor in American Fork, Utah.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the TSOR’s Genola Facility to a used oil processor in Utah.</p>
FA	October 28, 2020	WASHINGTON, UT (UNLOAD 2) → CEDAR (CITY LOAD 2) → KANOSH (UNLOAD 2) → OGDEN (LOAD 2)	<p>¶19.2.2: Failure to submit used oil shipment records: From the unpermitted TSOR-Cedar City Tank to a W.W. Clyde facility in Utah.</p> <p>¶27.2: Used oil storage longer than 24 without a Permit in the unpermitted TSOR- Cedar City Tank.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the unpermitted TSOR-Cedar City Tank to a W.W. Clyde facility in Utah.</p>
FA	October 28, 2020	TSOR driver FA delivered 9,286 gallons of used oil to the W.W. Clyde facility in Knosh, Utah, on BOL #17633, dated October 28, 2020. TSOR certified that this oil met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 20101196-001A, for an oil sample collected on October 15, 2020, from the Genola Facility tanks 10, 11, and 12.	<p>¶38.4.3: TSOR knowingly made false material statements on TSOR’s BOL# 17633, dated October 28, 2020, by recording on the BOL that the used delivered to the W.W. Clyde facility in Knosh, Utah, was on-specification used oil from the TSOR Genola Facility, but driver FA’s timesheet entry on October 28, 2020, records that the used oil was collected from the unpermitted TSOR-Cedar City Tank.</p>
FA	October 29, 2020	OGDEN → TWIN FALLS SLEEPER	<p>¶27.3: Used oil storage longer than 24 without a Permit in the unpermitted TSOR-Triple H Tank.</p>

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry (unless otherwise noted)</u>	<u>Non-Compliance Documentation</u> <u>NOV Violations</u> [Includes Notes for Significant Events and Timesheet Entries]
FA	October 30, 2020	TWIN FALLS (UNLOAD 2) → OGDEN (LOAD) → SLC	<p>¶19.2.2: Failure to submit used oil shipment records: From the unpermitted TSOR-Triple H Tank to a Staker facility in Idaho.</p> <p>¶27.3: Used oil storage longer than 24 without a Permit in the unpermitted TSOR-Triple H Tank.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the unpermitted TSOR-Triple H Tank to a Staker facility in Idaho. ¶</p>
FA	October 30, 2020	TSOR driver FA delivered 10,049 gallons of used oil to the Staker facility in Twin Falls, Idaho, on BOL #17634, dated October 30, 2020. TSOR certified that this oil met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 20101196-001A, for an oil sample collected on October 15, 2020, from the Genola Facility tanks 10, 11, and 12.	<p>¶38.4.3: TSOR knowingly made false material statements on TSOR’s BOL# 17634, dated October 30, 2020, by recording on the BOL that the used delivered to the Staker facility in Twin Falls, Idaho, was on-specification used oil from the TSOR Genola Facility, but driver FA’s timesheet entry on October 30, 2020, records that the used oil was collected from the unpermitted TSOR-Triple H Tank.</p>
FA	November 3, 2020	WASHINGTON (UNLOAD 2) → CEDAR CITY (LOAD 2) KEIGLEY (DROP PUP) (UNLOAD) → BLUFFDALE → SLC+ HR WORK TIME	<p>¶19.2.2: Failure to submit used oil shipment records: From the unpermitted TSOR-Cedar City Tank to TSOR’s Utah Genola Facility.</p> <p>¶27.2: Used oil storage longer than 24 hours without a Permit in the unpermitted TSOR-Cedar City Tank.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the unpermitted TSOR-Triple H Tank to a W.W. Clyde facility in Utah.</p>
FA	November 5, 2020	SLC → BLUFFDALE → ROCK SPRINGS (LOAD) → SLC	
FA	November 6, 2020	SLC → AMERICAN FORK (UNLOAD) + 1 HR WET OIL → BLUFFDALE TRAILER DROP @ SLC	<p>¶19.2.1: Failure to submit used oil shipment records: From TSOR’s Rock Springs Facility to a used oil processor facility in Utah.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: Failure to submit used oil shipment records: From TSOR’s Rock Springs Facility to a used oil processor facility in Utah.</p>

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry (unless otherwise noted)</u>	<u>Non-Compliance Documentation</u> <u>NOV Violations</u> [Includes Notes for Significant Events and Timesheet Entries]
TT	November 6, 2020	Transport wet oil Rocks Springs to Keigley @45¢ Load Truck + 4 axel (sic) pup Rocks Springs TSO TNK 9500 gals Unload " " "	¶19.2.2: Failure to submit used oil shipment records: From TSOR’s Rock Springs Facility to TSOR’s Utah Genola Facility. ¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From TSOR’s Rock Springs Facility to TSOR’s Utah Genola Facility.
FA	November 11, 2020	SLC → BLUFFDALE (HOS RE) (LOAD) → OGDEN (LOAD) →TWIN FALLS (UNLOAD) → OGDEN (HOS RE) → SLC HOS RE TIME (1 HR TOTAL)	¶19.2.2: Failure to submit used oil shipment records: From the unpermitted TSOR-Triple H Tank to a Staker facility in Idaho. ¶27.3: Used oil storage longer than 24 hours in the TSOR-Triple H Tank. ¶26.1: Failure to report shipments of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the unpermitted TSOR-Triple H Tank to a Staker facility in Idaho.
FA	November 11, 2020	TSOR driver FA delivered 6,241 gallons of used oil to the Staker facility in Twin Falls, Idaho, on BOL #17639, dated November 11, 2020. TSOR certified that this oil met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 20110368-001A, for an oil sample collected on November 13, 2020, from the Genola Facility tanks 7, 8, and 9.	¶38.4.3: TSOR knowingly made false material statements on TSOR’s BOL# 17639, dated November 11, 2020, by recording on the BOL that the used delivered to the Staker facility in Twin Falls, Idaho, was on-specification used oil from the TSOR Genola Facility, but driver FA’s timesheet entry on November 11, 2020, records that the used oil was collected from the unpermitted TSOR-Triple H Tank.
Note: TSOR driver FA stated to the inspector that he collected the last volume of used oil stored in the TSOR-Triple H Tank on November 11, 2020, and delivered the oil to a Staker facility in Twin Falls, Idaho. Driver FA stated: (1) that he did not collect or deliver loads of oil to the TSOR-Triple H Tank after November 11, 2020; and (2) that TSOR did not store any used oil the TSOR-Triple H Tank after November 11, 2020.			
FA	November 12, 2020	SLC → KEIGLEY (HOS RE) (LOAD) → ROCK SPRINGS → RAWLINS (UNLOAD) → ROCK SPRINGS (LOAD 2) + 1 HR WET OIL SLEEPER	¶19.2.1: Failure to submit used oil shipment records: From TSOR’s Utah Genola Facility to a TSOR facility in Wyoming. ¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From TSOR’s Utah Genola Facility to a TSOR facility in Wyoming.

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry</u> (unless otherwise noted)	<u>Non-Compliance Documentation</u> NOV Violations [Includes Notes for Significant Events and Timesheet Entries]
FA	November 13, 2020	ROCK SPRINGS → KEIGLEY (UNLOAD) + 1 HR WET OIL	<p>¶19.2.1: Failure to submit used oil shipment records: From TSOR’s Rock Springs Facility to TSOR’s Utah Genola Facility .</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From TSOR’s Rock Springs Facility to TSOR’s Utah Genola Facility.</p>
FA	November 15, 2020	SLC → KEIGLEY (LOAD 2) → CEDAR CITY (DROP PUP) LUG/SLEEPER/GRADE PAY	
FA	November 16, 2020	LUG → SLOAN (UNLOAD) → CEDAR CITY (UNLOAD PUP) → ROCK SPRINGS	<p>¶19.2.2: Failure to submit used oil shipment records: From TSOR’s Utah Genola Facility to the unpermitted TSOR-Cedar City Tank.</p> <p>¶27.2: Used oil storage longer than 24 hours without a Permit in the unpermitted TSOR-Cedar City Tank.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From TSOR’s Utah Genola Facility to the unpermitted TSOR-Cedar City Tank.</p>
FA	November 17, 2020	ROCK SPRINGS → CHEYENNE (LOAD 2) → EVANSTON GRADE PAY SLEEPER PAY	
FA	November 18, 2020	EVANSTON → SLC → CEDAR CITY (UNLOAD 2) → SLC	<p>¶19.2.2: Failure to submit used oil shipment records: From the TSOR’s Cheyenne Facility to the unpermitted TSOR-Cedar City Tank.</p> <p>¶27.2: Used oil storage longer than 24 hours without a Permit in the unpermitted TSOR-Cedar City Tank.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the TSOR’s Cheyenne Facility to the unpermitted TSOR-Cedar City Tank.</p>

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry (unless otherwise noted)</u>	<u>Non-Compliance Documentation</u> <u>NOV Violations</u> [Includes Notes for Significant Events and Timesheet Entries]
TT	November 18, 2020	Load For Delivery Cedar City 10,500 gals Transport oil Cedar City TSO TNK Unload " " " 10,500 gals	<p>¶19.2.2: Failure to submit used oil shipment records: From a TSOR facility/tank/tanker (permitted and/or unpermitted) to the unpermitted TSOR-Cedar City Tank.</p> <p>¶27.2: Used oil storage longer than 24 hours without a Permit in the unpermitted TSOR-Cedar City Tank.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From a TSOR facility/tank/tanker (permitted and/or unpermitted) to the unpermitted TSOR-Cedar City Tank.</p>
TT	November 19, 2020	Transport oil TSO Cedar City TNK Unload " " "	<p>¶19.2.2: Failure to submit used oil shipment records: From a TSOR facility/tank/tanker (permitted and/or unpermitted) to the unpermitted TSOR-Cedar City Tank.</p> <p>¶27.2: Used oil storage longer than 24 hours without a Permit in the unpermitted TSOR-Cedar City Tank.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From a TSOR facility/tank/tanker (permitted and/or unpermitted) to the unpermitted TSOR-Cedar City Tank.</p>
FA	November 23, 2020	SLC → LAKEVIEW OR. (UNLOAD)	<p>¶19.2.2: Failure to submit used oil shipment records: From a TSOR facility/tank/tanker (permitted and/or unpermitted) to a facility in Oregon.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From a TSOR facility/tank/tanker (permitted and/or unpermitted) to a facility in Oregon.</p>

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry (unless otherwise noted)</u>	<u>Non-Compliance Documentation</u> <u>NOV Violations</u> [Includes Notes for Significant Events and Timesheet Entries]
TT	December 1, 2020	Transport oil Cedar TNK TSO Unload	<p>¶19.2.2: Failure to submit used oil shipment records: From a TSOR facility/tank/tanker (permitted and/or unpermitted) to the unpermitted TSOR-Cedar City Tank.</p> <p>¶27.2: Used oil storage longer than 24 hours without a Permit in the unpermitted TSOR-Cedar City Tank.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From a TSOR facility/tank/tanker (permitted and/or unpermitted) to the unpermitted TSOR-Cedar City Tank.</p>
FA	December 1, 2020	SLC → CEDAR CITY (LOAD) → LAS VEGAS SLEEPER (DROP PUP) SLC)	<p>¶27.2: Used oil storage longer than 24 hours without a Permit in the unpermitted TSOR-Cedar City Tank.</p>
FA	December 2, 2020	LUG → SLOAN (UNLOAD) SLC (HOOK PUP) <i>Note: See TSOR BOL, dated December 2, 2020.</i>	<p>¶19.2.2: Failure to submit used oil shipment records: From the unpermitted TSOR-Cedar City Tank to a facility in Nevada.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the unpermitted TSOR-Cedar City Tank to a facility in Nevada.</p> <p>¶38.4.3: TSOR knowingly made false material statements on TSOR’s delivery record, dated December 2, 2020, by recording on the BOL that the used oil was on-specification used oil from the TSOR Genola Facility, but driver FA’s timesheet entry on December, 2, 2020, records that the used oil was collected from the unpermitted TSOR-Cedar City Tank.</p>
TT	December 9, 2020	Transport TSO Cedar City TNK Unload " " "	<p>¶19.2.2: Failure to submit used oil shipment records: From a TSOR facility/tank/tanker (permitted and/or unpermitted) to the unpermitted TSOR-Cedar City Tank.</p> <p>¶27.2: Used oil storage longer than 24 hours without a Permit in the unpermitted TSOR-Cedar City Tank.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From a TSOR facility/tank/tanker (permitted and/or unpermitted) to the unpermitted TSOR-Cedar City Tank.</p>

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry (unless otherwise noted)</u>	<u>Non-Compliance Documentation</u> <u>NOV Violations</u> [Includes Notes for Significant Events and Timesheet Entries]
TT	December 10, 2020	Transport oil TSO Cedar City TNK Unload " " "	<p>¶19.2.2: Failure to submit used oil shipment records: From a TSOR facility/tank/tanker (permitted and/or unpermitted) to the unpermitted TSOR-Cedar City Tank.</p> <p>¶27.2: Used oil storage longer than 24 hours without a Permit in the unpermitted TSOR-Cedar City Tank.</p> <p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From a TSOR facility/tank/tanker (permitted and/or unpermitted) to the unpermitted TSOR-Cedar City Tank.</p>
FA	January 18, 2021	SLC → CEDAR CITY (LOAD) → MESQUITE SLEEPER	<p>¶27.2: Used oil storage longer than 24 hours without a Permit in the unpermitted TSOR-Cedar City Tank.</p>
FA	January 19, 2021	<p>MESQUITE → LITTLEFIELD (UNLOAD) → CEDAR CITY (LOAD) ST GEORGE (UNLOAD) → SLC</p> <p><i>Note: See TSOR BOL, dated January 19, 2020.</i></p>	<p>¶19.2.2: Failure to submit used oil shipment records: From the unpermitted TSOR-Cedar City Tank to a Staker facility in Arizona and from the unpermitted TSOR-Cedar City Tank to a Staker facility in Utah.</p> <p>¶27.2: Used oil storage longer than 24 hours without a Permit in the unpermitted TSOR-Cedar City Tank.</p> <p>¶38.4.3: TSOR knowingly made false material statements on TSOR’s delivery record, dated January 19, 2021, by recording on the BOL that the used oil delivered to Stakers facility in Utah, was on-specification used oil from the TSOR Genola Facility, but driver FA’s timesheet entry on January 19, 2021, records that the used oil was collected from the unpermitted TSOR-Cedar City Tank.</p>
TT	January 20, 2021	Transport oil Rock Springs → Cedar City TSO TNK	<p>¶19.2.2: Failure to submit used oil shipment records: From a TSOR’s Rock Springs Facility to the unpermitted TSOR-Cedar City Tank.</p> <p>¶27.2: Used oil storage longer than 24 hours without a Permit in the unpermitted TSOR-Cedar City Tank.¶</p>
FA	January 31, 2021	SLC → KEIGLEY → CEDAR CITY (LOAD) → MESQUITE	<p>¶27.2: Used oil storage longer than 24 Hours without a Permit in the unpermitted TSOR-Cedar City Tank.</p>

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry (unless otherwise noted)</u>	<u>Non-Compliance Documentation</u> <u>NOV Violations</u> [Includes Notes for Significant Events and Timesheet Entries]
TT	February 22, 2021	Transport oil St. George to TSO Cedar City TNK Unload " " "	<p>¶19.2.2: Failure to submit used oil shipment records: From a TSOR facility/tank/tanker (permitted and/or unpermitted) to the unpermitted TSOR-Cedar City Tank.</p> <p>¶27.2: Used oil storage longer than 24 hours without a Permit in the unpermitted TSOR-Cedar City Tank.</p>
TT	February 23, 2021	Load TSO Cedar City Unload Keigley	<p>¶19.2.2: Failure to submit used oil shipment records: From the unpermitted TSOR-Cedar City Tank to TSOR’s Utah Genola Facility.</p> <p>¶27.2: Used oil storage longer than 24 hours without a Permit in the unpermitted TSOR-Cedar City Tank.</p>
TT	February 23, 2021	<p>load Ogden Delivery Western Rock-Sorenson Unload</p> <p>[TSOR driver TT delivered 11,028 gallons of used oil to the Staker facility in Washington, Utah, on BOL #17476, dated February 24, 2021. TSOR certified that this oil met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 20111299-001A, for an oil sample collected on November 18, 2020, from the Genola Facility tanks 10, 11, and 12.]</p> <p><i>Note: TSOR had not verified that any oil stored at the West Haven Facility met the specification requirements of UAC R315-15-1.2.</i></p>	<p>¶19.2.2: Failure to submit used oil shipment records: From the TSOR West Haven Facility to a Staker facility in Washington, Utah.</p> <p>¶38.4.3: TSOR knowingly made false material statements on TSOR BOL #17476, dated February 24, 2021, by recording on the BOL that the used oil was on-specification used oil from the TSOR Genola Facility, but driver TT’s timesheet entry on February 23, 2021 records that the used oil was collected from the TSOR West Haven Facility.</p>
FA	February 23, 2021	IDAHO FALLS → IDAHO FALLS → HELENA (LOAD 2) → DOUBOISE (sic) SLEEPER	

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry</u> (unless otherwise noted)	<u>Non-Compliance Documentation</u> NOV Violations [Includes Notes for Significant Events and Timesheet Entries]
FA	February 24, 2021	DOUBOISE (<i>sic</i>) → IDAHO FALLS (UNLOAD 2) → SLC	¶38.4.5: TSOR knowingly made false material statements on TSOR’s BOL dated February 24, 2021, by recording on the BOL that the used oil delivered to the Staker facility in Idaho was on-specification used oil from TSOR’s Utah Genola Facility, but FA’s timesheet entry and Wyoming DOT driver log records, both dated February 23, 2021, record that FA collected the used oil from TSOR’s Helena Facility.
FA	March 17, 2021	SLC → CEDAR CITY (LOAD 2) → ST GEORGE (SLEEPER)	¶27.2: Used oil storage longer than 24 hours without a Permit in the unpermitted TSOR-Cedar City Tank.
FA	March 18, 2021	ST GEORGE (UNLOAD 2) → SLC <i>Note: See TSOR BOL, dated March 18, 20210.</i>	¶19.2.2: Failure to submit used oil shipment records: From the unpermitted TSOR-Cedar City Tank to a Staker facility in Utah. ¶27.2: Used oil storage longer than 24 hours without a Permit in the unpermitted TSOR-Cedar City Tank. ¶38.4.3: TSOR knowingly made false material statements on TSOR’s delivery record, dated March 18, 2021, by recording on the BOL that the used oil delivered to Stakers facility in Utah, was on-specification used oil from the TSOR Genola Facility, but driver FA’s timesheet entry on March 18, 2021, records that the used oil was collected from the unpermitted TSOR-Cedar City Tank.
TT	April 15, 2021	Transport oil St. George to TSO Cedar City Unload " "	¶19.2.2: Failure to submit used oil shipment records: From a TSOR facility/tank/tanker (permitted and/or unpermitted) to the unpermitted TSOR-Cedar City Tank. ¶27.2: Used oil storage longer than 24 hours without a Permit in the unpermitted TSOR-Cedar City Tank.

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry (unless otherwise noted)</u>	<u>Non-Compliance Documentation</u> <u>NOV Violations</u> [Includes Notes for Significant Events and Timesheet Entries]
MB	April 18, 2021	#273048, 6500g, Cedar City, Kilgore Elam, Moab <i>Note: See driver MB Wyoming DOT logs.</i>	<p>¶19.2.2: Failure to submit used oil shipment records: From the unpermitted TSOR-Cedar City Tank to a Kilgore facility in Utah.</p> <p>¶27.2: Used oil storage longer than 24 hours without a Permit in the unpermitted TSOR-Cedar City Tank.</p> <p>¶38.4.3: TSOR knowingly made false material statements on TSOR’s delivery record, dated April 18, 2021, by recording on the BOL that the used oil delivered to a Kilgore facility in Moab, Utah, was on-specification used oil from the TSOR Genola Facility, but driver MB’s timesheet entry on April 18, 2020, records that the used oil was collected from the unpermitted TSOR-Cedar City Tank.</p>
FA	April 20, 2021	SLC → OGU (LOAD 2) → KEIGLEY (UNLOAD 2) → SLC TRANSFER OIL	<p>¶19.2.2: Failure to submit used oil shipment records: From the TSOR West Haven Facility to the TSOR-Genola Facility.</p>
MB	April 20, 2021	TSOR driver MB delivered 6,535 gallons of used oil to the Staker facility in Moab, Utah, on BOL #21447, dated April 20, 2021, TSOR certified that this oil met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 201030557-001A, for an oil sample collected on March 1, 2021, from the TSOR’s Rifle Facility in Colorado.	<p>¶26.1: Failure to report a shipment of used oil on TSOR’s 2020 Used Oil Transporter Annual Report: From the TSOR Rifle Facility to a Staker facility in Moab, Utah.</p>
MB	April 22, 2021	#227505, 6600g, Cedar City, Staker, Washington	<p>¶19.2.2: Failure to submit used oil shipment records: From the unpermitted TSOR-Cedar City Tank to a Staker facility in Utah.</p> <p>¶27.2: Used oil storage longer than 24 hours without a Permit in the unpermitted TSOR-Cedar City Tank.</p>

<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry (unless otherwise noted)</u>	<u>Non-Compliance Documentation</u> <u>NOV Violations</u> [Includes Notes for Significant Events and Timesheet Entries]
MB	April 22, 2021	TSOR driver MB delivered 6,600 gallons of used oil to the Staker facility in Washington, Utah, on a BOL, dated April 22, 2021, TSOR certified that this oil met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 21030007-001A, for an oil sample collected on February 24, 2021, from the TSOR's Genola Facility tanks 7-12.	¶38.4.3: TSOR knowingly made false material statements on TSOR's delivery record, dated April 18, 2021, by recording on the BOL, dated April 22, 2021 that the used oil delivered to a Staker facility in Washington, Utah, was on-specification used oil from the TSOR Genola Facility, but driver MB's timesheet entry on April 22, 2021, records that the used oil was collected from the unpermitted TSOR-Cedar City Tank.
MB	May 5, 2021	#227551, Cedar City, 5080g to Staker Moab	¶19.2.2: Failure to submit used oil shipment records: From the unpermitted TSOR-Cedar City Tank to a Staker facility in Utah. ¶27.2: Used oil storage longer than 24 hours without a Permit in the unpermitted TSOR-Cedar City Tank.
MB	May 6, 2021	TSOR driver MB delivered 5,080 gallons of used oil to a Staker facility in Moab, Utah, on a BOL with a delivery date of May 6, 2021. TSOR certified that this oil met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 21030007-001A, for an oil sample collected on February 24, 2021, from the TSOR's Genola Facility tanks 7-12.	¶38.4.7: TSOR knowingly made false material statements on a TSOR BOL, with a delivery date of May 6, 2021, by recording on the BOL that the used oil delivered to Staker facility in Moab, Utah, was on-specification used oil from tanks at TSOR's Utah Genola Facility, but MB's Wyoming DOT driver log dated May 6, 2021, records the used oil was collected from the TSOR-Cedar City Tank.

<u>Employee</u> (Initials)	<u>Date</u>	<u>Timesheet Entry</u> (unless otherwise noted)	<u>Non-Compliance Documentation</u> NOV Violations [Includes Notes for Significant Events and Timesheet Entries]
MB	May 11, 2021	TSOR driver MB delivered 6,663 gallons of used oil to a Staker facility in Moab, Utah, on a BOL, dated May 11, 2021. TSOR certified that this oil met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 21050510-001A, for an oil sample collected on May 3, 2021, from the TSOR's Genola Facility tanks 5, 11, 12.	<p>¶19.2.2: Failure to submit used oil shipment records: From TSOR's Rifle Facility to a Staker facility in Utah.</p> <p>¶38.4.7: TSOR knowingly made false material statements on a TSOR BOL, dated of May 11, 2021, by recording on the BOL that the used oil delivered to Staker facility in Moab, Utah, was on-specification used oil from tanks at TSOR's Utah Genola Facility, but MB's Wyoming DOT driver log dated May 11, 2021, records the used oil was collected from the TSOR Rifle Facility in Colorado.</p>
TT	May 13, 2021	Transport oil to Cedar City	<p>¶19.2.2: Failure to submit used oil shipment records: From a TSOR facility/tank/tanker (permitted and/or unpermitted) to the unpermitted TSOR-Cedar City Tank.</p> <p>¶27.2: Used oil storage longer than 24 hours without a Permit in the unpermitted TSOR-Cedar City Tank.</p>
TT	May 19, 2021	Transport oil Ogden TSO to Cedar TSO Unload " " Load " "	<p>¶19.2.2: Failure to submit used oil shipment records: From a TSOR facility/tank/tanker (permitted and/or unpermitted) to the unpermitted TSOR-Cedar City Tank.</p> <p>¶27.2: Used oil storage longer than 24 hours without a Permit in the unpermitted TSOR-Cedar City Tank.</p>
TT	May 20, 2021	Transport oil Ogden to Cedar TSO TNK	<p>¶19.2.2: Failure to submit used oil shipment records: From a TSOR facility/tank/tanker (permitted and/or unpermitted) to the unpermitted TSOR-Cedar City Tank.</p> <p>¶27.2: Used oil storage longer than 24 hours without a Permit in the unpermitted TSOR-Cedar City Tank.</p>

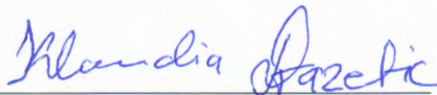
<u>Employee (Initials)</u>	<u>Date</u>	<u>Timesheet Entry (unless otherwise noted)</u>	<u>Non-Compliance Documentation</u> <u>NOV Violations</u> [Includes Notes for Significant Events and Timesheet Entries]
FA	May 25, 2021	SLC → OGU (LOAD 2) → ID1 (UNLOAD 2) → SLC	¶19.2.2: Failure to submit used oil shipment records: From the TSOR-West Haven Facility to a TSOR facility in Idaho.
FA	May 27, 2021	SLC → OGU (LOAD 2) → ID1 (UNLOAD 2) → SLC	¶19.2.2: Failure to submit used oil shipment records: From the TSOR-West Haven Facility to a TSOR facility in Idaho.
MB	June 9, 2021	#227544, 6600 G Cedar City to Staker, Huntington	¶19.2.2: Failure to submit used oil shipment records: From the unpermitted TSOR-Cedar City Tank to a Staker facility in Utah. ¶27.2: Used oil storage longer than 24 hours without a Permit in the unpermitted TSOR-Cedar City Tank.
MB	June 9, 2021	TSOR driver MB delivered 6,663 gallons of used oil to a Staker facility in Moab, Utah, on a BOL dated May 11, 2021. TSOR certified that this oil met the specification requirements of UAC R315-15-1.2, using the Summit Analytical Report 21051432, 2021, for a sample collected on May 18, 2021, from the TSOR's Genola Facility tanks 4-7.	¶38.4.7: TSOR knowingly made false material statements on a TSOR BOL, dated of June 9, 2021, by recording on the BOL that the used oil delivered to Staker facility in Moab, Utah, was on-specification used oil from tanks at TSOR's Utah Genola Facility, but MB's Wyoming DOT driver log dated June 9, 2021, records the used oil was collected from the TSOR-Cedar City Tank.
TT	June 9, 2021	Load Cedar City and transport to Ogden Unload	¶19.2.2: Failure to submit used oil shipment records: From the unpermitted TSOR-Cedar City Tank to a TSOR facility/tank/tanker (permitted and/or unpermitted). ¶27.2: Used oil storage longer than 24 hours without a Permit in the unpermitted TSOR-Cedar City Tank.
TT	June 17, 2021	Transport oil Cedar City TNK Unload Ogden	¶19.2.2: Failure to submit used oil shipment records: From the unpermitted TSOR-Cedar City Tank to a TSOR facility/tank/tanker (permitted and/or unpermitted). ¶27.2: Used oil storage longer than 24 hours without a Permit in the unpermitted TSOR-Cedar City Tank.

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I mailed a true and correct copy of the foregoing NOTICE OF VIOLATION AND COMPLIANCE ORDER on the 7th of September, 2022 by US Certified Mail, Return receipt Requested, to:

Charles Welty, Registered Agent
Tri State Oil Reclaimers, Inc.
1770 Otto Road
Cheyenne, WY 82007

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7019 2970 0000 1261 6597



Klaudia Drazetic

PROPOSED – SETTLEMENT NEGOTIATIONS

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In the Matter of:

Tri State Oil Reclaimers, Inc.
Notice of Violation and Compliance Order
(NOV/CO) No. 2111113
UOP-0135 and UOR-0137
WYD988869400

:
:
:
:

STIPULATION AND CONSENT ORDER
No. 2111116

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This **STIPULATION AND CONSENT ORDER** (CONSENT ORDER) is issued by the Director of the Utah Division of Waste Management and Radiation Control pursuant to the Utah Administrative Code R315-15 (the Rules), Utah Used Oil Management Act (the Act), Utah Code § 19-6-701, *et seq.*, and the Utah Solid and Hazardous Waste Act, Utah Code § 19-6-101, *et seq.*

JURISDICTION

The Director has jurisdiction over the subject matter of this CONSENT ORDER pursuant to Utah Code §§ 19-6-705(2)(c), 19-6-721, 19-6-107, and 19-6-112 and jurisdiction over Tri State Oil Reclaimers, Inc.

1. Tri State Oil Reclaimers, Inc. consents to and will not challenge the issuance of this CONSENT ORDER or the Director’s jurisdiction to enter and enforce this CONSENT ORDER. Tri State Oil Reclaimers, Inc. and the Director are the parties to this agreement.
2. The Utah Waste Management and Radiation Control Board has authority to review and approve or disapprove this CONSENT ORDER pursuant to Utah Code § 19-6-104(1)(e).

FINDINGS

3. Tri State Oil Reclaimers, Inc. (TSOR) is incorporated in the State of Wyoming and registered to conduct business in the State of Utah (Entity 8870599-0143). TSOR is the owner and operator of a used oil transportation and marketing business headquartered at 1770 Otto Road, Cheyenne, Wyoming (TSOR Cheyenne Facility).
4. TSOR operates as a used oil transporter and marketer in the State of Utah under the provisions of the Act, the Utah Solid and Hazardous Waste Act, the Rules, and a State-issued Used Oil Transporter Permit (Permit UOP-0135) and Used Oil Marketer Registration (Registration UOR-0137).
5. TSOR is a “person” as defined in Utah Code § 19-1-103(4) and is subject to all applicable provisions of the Act, the Utah Solid and Hazardous Waste Act, the Rules, and Permit UOP-0135 and Registration UOR-0137 issued to TSOR as owner and operator of its Utah used oil transportation operations and used oil marketing operations, respectively.

PROPOSED – SETTLEMENT NEGOTIATIONS

6. Representatives of the Director conducted the following inspections in 2021:
 - 6.1. On June 17, 2021, at the Jenkins Oil Company facility located at 1100 West 560 North, Industrial Road, Cedar City, Utah;
 - 6.2. On June 24, 2021, at the TSOR West Haven facility located at 2400 South 1900 West, West Haven, Utah; the Triple H Excavating Inc. facility located at 1668 South 1900 West, West Haven, Utah; and the TSOR Genola facility located at 2370 West Mountain Road, Genola, Utah;
 - 6.3. On June 25, 2021, the TSOR West Haven facility located at 2400 South 1900 West, West Haven, Utah;
 - 6.4. On July 1 and 2, 2021, at the TSOR Headquarters in Cheyenne, Wyoming;
 - 6.5. On August 30, 2021, at the TSOR shop located at 14955 South 2200 West, Bluffdale, Utah; and
 - 6.6. On September 9, 2021, at the TSOR Genola facility located at 2370 West Mountain Road, Genola, Utah.
7. Based on the 2021 inspections and review of TSOR records, the Director issued Notice of Violation and Compliance Order (NOV/CO) No. 2111113 on September 7, 2022, which cited violations of the Act, the Utah Solid and Hazardous Waste Act, the Rules, Permit UOP-0135, and Registration UOR-0137.
8. On October 7, 2022, TSOR filed a written response to the NOV/CO.
9. In accordance with the Civil Penalty Policy, Utah Admin. Code R315-102, which considers such factors as the gravity of the violation, the extent of deviation from the rules, the potential for harm to human health and the environment, good faith efforts to comply, and other factors, the Director calculated and proposed a penalty based on the violations alleged in the NOV/CO No. 2111113.
10. Despite the Director's consideration that numerous violations raised substantive concern, he did not include violations that occurred prior to September 7, 2020, in the penalty calculation.

STIPULATION AND CONSENT ORDER

11. This CONSENT ORDER has been negotiated in good faith and the parties now wish to fully resolve NOV/CO No. 2111113 without further administrative or judicial proceedings.
12. In full settlement of the violations alleged in NOV/CO No. 2111113, TSOR shall:
 - 12.1 Pay a penalty of \$111,601.00 (one hundred eleven thousand six hundred one dollars). The total penalty assessed for Violation 10 is \$50,000. The Director has decided not to assess \$634,400 of the total possible penalty for Violation 10. Willfulness and negligence were documented.

PROPOSED – SETTLEMENT NEGOTIATIONS

12.2 A cash payment of \$55,800.50 (fifty-five thousand eight hundred dollars and fifty cents) shall be made within thirty days of the effective date of this CONSENT ORDER. Payment shall be made to the Utah Department of Environmental Quality, c/o Douglas J. Hansen, Director, Division of Waste Management and Radiation Control, P.O. Box 144880, Salt Lake City, Utah 84114-4880.

12.2.1 The remaining penalty amount, \$55,800.50 (fifty-five thousand eight hundred dollars and fifty cents), shall be deferred and waived by the Director if TSOR complies with 12.2, the Orders in 13, and remains in compliance with all of the provisions of the Act, the Utah Solid and Hazardous Waste Act, the Rules, the State-issued Used Oil Transporter Permit (Permit UOP-0135), and Used Oil Marketer Registration (Registration UOR-0137) for one year from the effective date of this CONSENT ORDER. For the year, violations that are minor in potential for harm and minor in extent of deviation shall not trigger payment of the deferred penalty amount. These minor violations are still subject to the regular enforcement process, including return to compliance and appropriate penalties.

12.2.2 If the Director determines that TSOR has failed to comply with the requirements of 12.2.1, the Director will provide written notification to TSOR that the deferred payment of \$55,800.50 (fifty-five thousand eight hundred dollars and fifty cents) has not been waived due to TSOR's failure to comply with the requirements of the CONSENT ORDER.

12.2.3 TSOR shall make a cash payment of \$55,800.50 (fifty-five thousand eight hundred dollars and fifty cents), within 60 days of the date that the Director notifies TSOR of their failure to comply with this CONSENT ORDER. Payment shall be made to the Utah Department of Environmental Quality, c/o Douglas J. Hansen, Director, Division of Waste Management and Radiation Control, P.O. Box 144880, Salt Lake City, Utah 84114-4880.

13. The Director hereby Orders TSOR to:

13.1 Cease storing used oil for longer than 24 hours in the TSOR tank located at the Jenkins Oil Facility in Cedar City, Utah, or the Triple H tank located in West Haven, Utah, until such time that each tank is permitted by the Director in accordance with the Rules.

13.2 Cease marketing untested used oil as on-specification used oil.

13.3 Submit the Used Oil Transporter Annual Report for its transportation operations for operating year 2022, an updated Used Oil Transporter Annual Report for its transportation operations for operating year 2021, and an updated Used Oil Transporter Annual Report for operating year 2020, within sixty days of the effective date of this CONSENT ORDER. To the extent that TSOR records are not available, the Reports may include written explanations of why the Reports are incomplete or otherwise deficient.

13.4 On or before the 15th day of each month, until the one-year anniversary of the effective date of this CONSENT ORDER, a corporate officer of Tri State Oil Reclaimers, Inc. shall submit a statement to the Director certifying for the preceding month that:

PROPOSED – SETTLEMENT NEGOTIATIONS

- 13.4.1 TSOR has not stored used oil longer than 24-hours in tanker trucks or unpermitted tanks in the State of Utah.
- 13.4.2 TSOR has recorded and maintained used oil collection and delivery records for all shipments of used oil transported in the State of Utah in accordance with the requirements of Permit UOP-0135 and Registration UOR-0137.
- 13.4.3 Used oil samples collected by TSOR employees are collected and analyzed in accordance with the requirements of Registration UOR-0137, and TSOR has recorded in the Genola and West Haven Facilities' operating record (i.e., tank logs): (1) the date, the time, and the volume of used oil in the tank at the time of lock down; (2) the date and time the lock was removed; and (3) the volume of oil removed from the tank.
- 13.4.4 Each TSOR employee conducting used oil operations has been adequately trained and complies with the requirements of Permit UOP-0135 and Registration UOR-0137.
- 13.4.5 Any non-compliance found after a review of operations has been corrected. The statement will include a description and corrective action of any non-compliance with the requirements of the Rules, Permit UOP-0135, and Registration UOR-0137. The description shall also include the dates and types of non-compliance, why the non-compliance occurred, and the immediate actions taken by TSOR to return to compliance with the Rules, Permit UOP-0135, and Registration UOR-0137.
- 13.4.6 On or before the 15th day of May 2024, August 2024, November 2024, and February 2025, for the previous three months, TSOR shall submit to the Director: complete copies of: (1) used oil storage delivery records for bulk loads of used oil collected from generators and delivered to TSOR's Genola and West Haven Facilities; (2) collection and delivery records for all shipments of on-specification burner fuel collected from a TSOR facility, located in the State of Utah, that was then delivered to customers in Utah or in surrounding states; and (3) collection and delivery records for all shipments of on-specification burner fuel collected from a TSOR facility not located in Utah, that was then delivered to customers in Utah.
- 13.5 For each submittal required by 13.4.1 through 13.4.6, above, TSOR shall include the following statement:
- “I certify under penalty of law that this document and all attachments were prepared under my direction or supervision according to a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.”

PROPOSED – SETTLEMENT NEGOTIATIONS

EFFECT OF CONSENT ORDER

For the purpose of this CONSENT ORDER, the parties agree and stipulate to the above stated facts. The obligations in this CONSENT ORDER apply to and are binding upon the Division of Waste Management and Radiation Control and upon TSOR and any of TSOR's successors, assigns, or other entities or persons otherwise bound by law.

The stipulations contained herein are for the purposes of settlement and shall not be considered admissions by any party and shall not be used by any person related or unrelated to this CONSENT ORDER for purposes other than determining the basis of this CONSENT ORDER. Nothing contained herein shall be deemed to constitute a waiver by the State of Utah of its right to initiate enforcement action, including civil penalties, against TSOR in the event of future non-compliance with this CONSENT ORDER, with the Act, the Utah Solid and Hazardous Waste Act, the Rules, Permit UOP-0135, or Registration UOR-0137; nor shall the State of Utah be precluded in any way from taking appropriate action should such a situation arise again for used oil transportation operations or used oil marketer operations conducted in Utah. However, entry into this CONSENT ORDER shall relieve TSOR of all liability for violations which did arise or could have arisen with respect to the allegations contained in NOV/CO No. 2111113.

EFFECTIVE DATE

This CONSENT ORDER shall become effective upon the date of execution by the Director.

PUBLIC PARTICIPATION

This CONSENT ORDER 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 his consent if any comment received during the Comment Period discloses facts for consideration indicating the CONSENT ORDER is inappropriate, improper, or inadequate.

PROPOSED – SETTLEMENT NEGOTIATIONS

SIGNATORY

The undersigned representative of Tri State Oil Reclaimers, Inc. certifies she is authorized to enter into this CONSENT ORDER and to execute and legally bind Tri State Oil Reclaimers, Inc.

Pursuant to the Utah Used Oil Management Act (the Act), Utah Code § 19-6-701, *et seq.*, in the *Matter of Tri State Oil Reclaimers, Inc., Notice of Violation and Compliance Order No. 2111113*, the parties hereto mutually agree and consent to STIPULATION AND CONSENT ORDER No. 2111116 as evidenced below:

TRI STATE OIL RECLAIMERS, INC.

THE STATE OF UTAH
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WASTE MANAGEMENT
AND RADIATION CONTROL

Sharna Welty, Vice President

Douglas J. Hansen, Director

Date: _____

Date: _____



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

Violation Number 1 (Finding 18)

Violation Description: *Utah Admin. Code (UAC) R315-15-4.3(a) by failing to notify of Tri State Oil Reclaimers, Inc. (TSOR)'s used oil transportation activities in accordance with the notification requirements of RCRA Section 3010.*

1. Gravity Based Penalty: \$600.00

(a) Potential for Harm – Minor

Although the notification requirements of RCRA Section 3010 is a critical component and fundamental to the continued integrity of the Used Oil Program, TSOR had obtained an EPA ID number for hazardous waste transporter and used oil marketer activities but not for used oil transportation activities.

(b) Extent of Deviation – Major

Substantial non-compliance as TSOR failed to notify of their used oil transportation activities since they obtained a used oil transporter permit (UOP-0135) from the Division of Waste Management and Radiation Control (Division) in 2013 under EPA ID No. WYD988869400 and after they were notified of this non-compliance in 2019. TSOR to date has not properly notified of used oil transportation activities on EPA Subtitle C Reporting Form 8700-12.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: 15% Increase @ \$90.00

TSOR has failed to promptly correct this violation or provide verification that the facility has returned to compliance as ordered in the NOV/CO, which subsequently has caused the Director to make additional efforts to verify that TSOR returned to compliance. This violation has not been corrected as of September 8, 2023.

(b) Willfulness/Negligence: 30% Increase @ \$180.00

(c) History of Noncompliance: 30% Increase @ \$180.00

The Division issued TSOR a Warning Letter on June 26, 2019, that notified TSOR its failure to comply with the notification requirements of UAC R315-15-4.3(a). This violation has not been corrected as of September 8, 2023.

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: NA

The Division did not calculate economic benefit for this specific violation due to the difficulty in accurately quantifying this parameter.

4. Recalculation of Penalty based on New Information: NA

Violation 1: Penalty Total: \$1,050.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

Violation Number 2 (Finding 19)

Violation Description: *Permit UOP-0135 and Registration UOR-0137 by failing to have used oil records readily accessible for review upon request of representatives of the Director.*

1. Gravity Based Penalty: \$2,600.00

(a) Potential for Harm – Moderate

Failure to provide records has a significant impact on implementing the Used Oil Program as these records are used to evaluate a facility's regulatory compliance with the Rules and TSOR's Used Oil Transporter Permit and Marketer Registration.

(b) Extent of Deviation – Moderate

Significantly deviates from the regulatory requirement as multiple records were never provided to the Division; however, some records were provided at the time of inspection.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: 12% Increase @ \$312.00

TSOR has failed to comply with Orders 2.a, 2.b, and 2.e in the TSOR NOV/CO No. 2111113 to submit additional used oil records to the Director which subsequently causes the Director to make additional efforts to verify that TSOR returned to compliance.

(b) Willfulness/Negligence: 20% Increase @ \$520.00

TSOR demonstrated gross negligence in failing to maintain records readily accessible for review and by failing to comply with the ORDER in the TSOR NOV/CO No. 2111113 to submit used oil records to the Director.

(c) History of Noncompliance: 15% Increase @ \$390.00

On May 1, 2017, the Division issued TSOR Warning Letter No.1706407, citing TSOR's failure to maintain used oil transportation records and have them readily accessible for review upon request of representatives of the Director.

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: NA

The Division did not calculate economic benefit for this specific violation due to the difficulty in accurately quantifying this parameter.

4. Recalculation of Penalty based on New Information: NA

Violation 2: Penalty Total: \$3,822.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 211116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)
Notice of Violation No. 211113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

Violation Number 3 (Finding 20)

Violation Description: *Utah Admin. Code R315-15-4.7(a) by failing to document on at least 336 collection records for bulk shipments of on-specification used oil, the TSOR facility address and the facility's EPA identification number.*

1. Gravity Based Penalty: \$1,600.00

(a) Potential for Harm – Moderate

There was a moderate adverse effect on the regulatory purposes for implementing the Used Oil Program.

(b) Extent of Deviation – Minor

TSOR deviated somewhat from the regulatory requirements for collection records but 83% of TSOR used oil collection records, dated from September 7, 2020, through July 6, 2021, included the name of the generator/facility and the EPA ID number (when applicable) where the used oil was collected.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: 12% Increase @ \$192.00

TSOR has failed to promptly correct this violation and has failed to comply with Orders 2.b, TSOR NOV/CO No. 211113 to submit on-specification used oil collection records, dated from July 1, 2022, to August 1, 2022, to the Director, which subsequently will cause the Director to make additional efforts to verify that TSOR has returned to compliance with regulatory requirements cited in Violation 3.

(b) Willfulness/Negligence: NA

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Increase Penalty @ \$320.00

TSOR received an estimated economic benefit of at least \$320.00 in additional labor costs (16 hours) for employees to generate 193 collection records from September 10, 2020, through July 6, 2021.

4. Recalculation of Penalty based on New Information: NA

Violation 3: Penalty Total: \$2,112.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

Violation Number 4 (Finding 21)

Violation Description: *Utah Admin. Code R315-15-4.7(b) by failing to: (1) record on used oil BOLs the information required by UAC R315-15-4.7 (b) for shipments of used oil delivered to a receiving facility, including another used oil transporter, transfer facility, burner, or processor; and (2) to keep any written delivery record for multiple shipments of used oil delivered to TSOR's Genola Facility and West Haven Facility.*

1. Gravity Based Penalty: \$3,000.00

(a) Potential for Harm – Moderate

There was a moderate adverse effect on the regulatory purposes for implementing the Used Oil Program.

(b) Extent of Deviation – Moderate

TSOR significantly deviated from the regulatory requirements for delivery records as 58% of TSOR's used oil delivery records, dated from September 7, 2020, through June 17, 2021, had incomplete information or no delivery record was generated.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: 12% Increase @ \$360.00

TSOR has failed to promptly correct this violation and has failed to comply with TSOR NOV/CO No. 2111113, Orders 2.a and 2.b, to submit used oil delivery records which subsequently will cause the Director to make additional efforts to verify that TSOR has returned to compliance with regulatory requirements cited in Violation 4.

(b) Willfulness/Negligence: NA

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Increase Penalty @ \$1,335.00

TSOR received an estimated economic benefit of at least \$1,335.00 in additional labor costs for employees to add missing information on 74 used oil delivery records and to create at least 193 delivery records for shipments of used oil delivered to facilities from September 7, 2020, through June 17, 2021.

4. Recalculation of Penalty based on New Information: NA

Violation 4: Penalty Total: \$4,695.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

Violation Number 5 (Finding 22)

Violation Description: *Permit UOP-0135 (April 13, 2020, and December 11, 2020) Attachment 3, Permit UOP-0135 (October 25, 2013) by failing from January 1, 2020, to March 17, 2020, to determine the halogen content for at least 484 loads of used oil collected directly from generators prior to loading the used oil for transport.*

1. Gravity Based Penalty: NA

(a) Potential for Harm – Moderate

Violations occurred prior to September 7, 2020: No penalty assessed.

(b) Extent of Deviation – Major

Violations occurred prior to September 7, 2020: No penalty assessed.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: NA

(b) Willfulness/Negligence: NA

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: NA

4. Recalculation of Penalty based on New Information: NA

Violation 5: Penalty Total: \$0.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

Violation Number 6 (Finding 23)

Violation Description: *Permit UOP-0135, Attachment 3, Condition B.6, (April 13, 2020, and December 11, 2020) by failing from April 13, 2020, through June 31, 2021, to conduct quality control duplicate samples on at least 276 of 356 bulk loads of used oil prior to off-load/delivery to the TSOR Genola Facility or the TSOR Haven Facility.*

1. Gravity Based Penalty: \$1,000.00

(a) Potential for Harm – Minor

There was a minor risk of exposure to human health and the environment.

(b) Extent of Deviation – Major

TSOR failed to screen all (at least 234 loads) loads of bulk used oil delivered to its Genola and West Haven Facilities from September 7, 2020, to June 31, 2021.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: 15% Increase @ \$150.00

TSOR has failed to promptly correct this violation as TSOR stated in the Response to the NOV that drivers did not begin screening bulk loads until after training in September of 2022.

(b) Willfulness/Negligence: 6% Increase @ \$60.00

Division inspectors witnessed, during attendance at a used oil training class given to employees in August 2021, TSOR instructing employees to screen all bulk loads of generator used oil prior to off-load at TSOR's Genola and West Haven Facilities. TSOR's Utah Manager and Employee T. C., stated to Division inspectors, during an inspection of the Genola Facility on September 9, 2021, that employees always screened bulk loads of used oil using a halogen test kit prior to off-load at the facility. This was not the case until after the training in September of 2022.

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Increase @ \$1,568.00

TSOR failed to screen at least 234 loads of bulk used oil prior to unloading from September 7, 2020, through June 31, 2021. The cost of a halogen screening test kit was \$6.70 in March of 2020; thus, TSOR had a cost savings by not screening these loads of at least \$1,568.00.

4. Recalculation of Penalty based on New Information: NA

Violation 6: Penalty Total: \$2,778.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 211116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)
Notice of Violation No. 211113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

Violation Number 7 (Finding 24)

Violation Description: Permit UOP-0135 (April 13, 2020, and December 11, 2020), Condition I.F.3 and Attachment 2, Conditions A.1, B.1, and B.2, by failing to record on at least 3,165 used oil collection records the method the TSOR driver used to determine the halogen content prior to collection.

1. Gravity Based Penalty: \$3,800.00

(a) Potential for Harm – Moderate

Failing to record information required by the Permit on over 3,000 records has at least an adverse effect on the Division’s implementation of the Used Oil Program.

(b) Extent of Deviation – Major

Failing to record information required by the Permit on over 3,000 records is a major deviation of TSOR’s permit requirements.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: 12% Increase @ \$456.00

(b) Willfulness/Negligence: 5% Increase @ \$190.00

Failing to record information required by the Permit on over 3,000 records shows at least some negligence by the drivers and compliance managers in fulfilling this requirement.

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: NA

Considered but not applied; benefit negligible.

4. Recalculation of Penalty based on New Information: NA

Violation 7: Penalty Total: \$4,446.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 211116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)
Notice of Violation No. 211113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

Violation Number 8 (Finding 25)

Violation Description: *Permit UOP-0135, Attachment 3, Condition D.1 (April 13, 2020, and December 11, 2020) by failing to have information of file determined as sufficient by the Director to support the use of generator knowledge for 3,165 loads of used oil (2,260,649 gallons) collected from 664 generators from April 13, 2020, through June 31, 2021.*

1. Gravity Based Penalty: \$900.00

(a) Potential for Harm – Minor

There was a minor risk of exposure to human health and the environment.

(b) Extent of Deviation – Major

TSOR failed to have any information on file to support the use of generator knowledge.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: 12% Increase @ \$108.00

TSOR failed as ordered in the NOV (ORDER 2.e) to submit information on file for which generators used to support generator knowledge which subsequently has caused the Director to make additional efforts to verify that TSOR has returned to compliance with the requirements of the Permit.

(b) Willfulness/Negligence: 30% Increase @ \$270.00

On October 7, 2019, TSOR responded to Warning Letter 1906043, and stated the following action would be taken by TSOR: “TSO needs to coordinate a system for generator acquired knowledge test and supplemental documentation of initial tests. Employees need to still test with current frequency.” On April 13, 2020, TSOR modified their permit to allow the use of generator knowledge and has yet complied with the requirement to have information on file to support the use of oil generator knowledge.

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Increase @ \$1,070.00

An economic benefit to TSOR was calculated with an assumption that it would take a driver at least 5 minutes to obtain a signed statement from every generator they collected oil from September 7, 2020, through June 31, 2021.

4. Recalculation of Penalty based on New Information: NA

Violation 8: Penalty Total: \$2,348.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

Violation Number 9 (Finding 26)

Violation Description: *Utah Admin. Code R315-15-13.4(d)(1-5) by failing to provide an accurate total volume of used oil transported in Utah in 2020 on the Used Oil Annual Report submitted for operating year 2020.*

1. Gravity Based Penalty: \$600.00

(a) Potential for Harm – Minor

There was a moderate risk of exposure to human health and the environment and adverse impact in implementing the Used Oil Program by failing to submit information required by Permit Condition I.P.1 and R315-15-13.4(d)(1-5) UAC.

(b) Extent of Deviation – Moderate

Although TSOR failed to submit significant amounts of information required in its Use Oil Annual Report, some of the information was submitted.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: 30% Increase @ \$180.00

TSOR failed as ordered in the NOV (ORDER 3) a revised Used Oil Transporter Annual Report that documents TSOR's used oil operations conducted in Utah in operating year 2020; and submit a 2021 Used Oil Transporter Annual Report for used oil operations conducted in Utah. Subsequently, this has caused the Director to make additional efforts to verify that TSOR has returned to compliance with the requirements of the Permit.

(b) Willfulness/Negligence: 15% Increase @ \$90.00

(c) History of Noncompliance: 15% Increase @ \$90.00

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: NA

The Division did not calculate economic benefit for this specific violation due to the difficulty in accurately quantifying this parameter.

4. Recalculation of Penalty based on New Information: NA

Violation 9: Penalty Total: \$960.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

Violation Number 10 (Finding 27)

Violation Description: *Utah Admin. Code R315-15-4.6(a) and R15-15-13.4(a) by storing used oil longer than 24 hours and less than 35 days in the unpermitted TSOR-Cedar City Tank, the TSOR-Unpermitted West Haven Tanks, the TSOR-Triple H Tank, the TSOR-Utah Tank Drop Yard, and in a TSOR tanker parked on the street adjacent to 6183 South 1550 East, Ogden, Utah, without first obtaining a Used Oil Transfer Facility Permit issued by the Director (see Finding 27).*

1. Gravity Based Penalty: \$10,000.00

(a) Potential for Harm – Major

The storage of used oil longer than 24-hours without the proper secondary containment or security in residential and commercial properties posed a major potential for harm to human health and the environment and had a major adverse effect on the Division’s implementation of the Used Oil Program.

(b) Extent of Deviation – Major

TSOR failed to comply with any of the requirements of UAC R315-15-4.6(a) and R15-15-13.4

(c) Multiple Events: \$2,000.00/day for 179 days @ \$358,000.00

2. Adjustment Factors:

(a) Good Faith: NA

(b) Willfulness/Negligence: 50% Increase (\$2,000.00 * 0.5=\$1,000.00/day for 179 days) @ \$179,000.00

TSOR’s President, C. Welty, and Utah Manager both stated to Division inspectors that they were aware that storing used oil the TSOR-Cedar City Tank was not in compliance with the Rules.

(c) History of Noncompliance: 30% Increase (\$2,000.00 * 0.3=\$600.00/day for 179 days) @ \$107,400.00

On March 3, 2014, and May 1, 2017, TSOR was issued Warning Letters by the Division which cited TSOR for storing used oil longer than 24-hours without obtaining a Used Oil Transfer Facility Permit: in used oil transportation vehicles, and for storing over 242,000 gallons of used oil in frac tanks in 2016 and 2017, respectively.

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Increase Penalty (\$167.60/day for 179 days) @ \$30,000.00

The Division estimates at a minimum TSOR had an economic benefit of at least \$55,500.00 by storing used oil in the unpermitted TSOR-Cedar City Tank from September 7, 2020, through June of 2021. Costs considered: Permitting, financial assurance (pollution liability and closure), tank inspection, construction of secondary containment for the tank, security fencing, employee training, recordkeeping and used oil transportation costs. TSOR estimates that these permitting and operational costs account for \$30,000.

Violation 10: Penalty Total: \$684,400.00

4. Recalculation of Penalty:

Violation 10: Penalty Total: \$50,000.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

Violation Number 11 (Finding 28)

Violation Description: *Permit UOP-0135, Attachment 4, Condition 4.0.1- 4.0.2.6 (October 25, 2013), Permit UOP-0135, Conditions II.E.1-II.E.5 (April 13, 2020, and December 11, 2020) by failing to train employees in between January 1, 2019, to August 29, 2021, as required (see Finding 28).*

1. Gravity Based Penalty: \$3,800.00

(a) Potential for Harm – Moderate

Failure to train employees resulted in multiple non-compliances with the Permit and which resulted in a moderate potential for harm to human health and the environment and also has an adverse effect on implementing the Used Oil Program.

(b) Extent of Deviation – Major

TSOR failed to provide used oil training to at least 11 employees conducting used oil transportation operations in 2020.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: NA

(b) Willfulness/Negligence: 20% Increase @ \$760.00

(c) History of Noncompliance:

The Division issued TSOR a Warning Letter on June 17, 2019, which cited TSOR for failing to train its employees as required by the Permit.

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Increase Penalty @ \$1,380.00

The Division estimated that TSOR saved employee labor costs of at least \$1,380.00 to conduct a used oil training class attended by 11 employees that conducted used oil transportation operations in Utah in 2020.

4. Recalculation of Penalty based on New Information: NA

Violation 11: Penalty Total: \$5,940.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

Violation Number 12 (Finding 29)

Violation Description: Registration UOR-0137 (March 24, 2020), Conditions E.1 through E.4, by failing to train employees as required by Registration UOR-0137.

1. Gravity Based Penalty: \$3,800.00

(a) Potential for Harm – Moderate

Failure to train employees resulted in multiple non-compliances with the Registration and resulted in a moderate potential for harm to human health and the environment and also has an adverse effect on implementing the Used Oil Program.

(b) Extent of Deviation – Major

TSOR failed to provide used oil Marketer Registration training to at least 11 employees conducting used oil operations in Utah in 2020.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: NA

(b) **Willfulness/Negligence: 20% Increase @ \$760.00**

(c) History of Noncompliance:

The Division issued TSOR a Warning Letter on June 17, 2019, which cited TSOR for failing to train its employees as required by the Permit.

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: NA

Although the Division estimated that TSOR saved employee labor costs of at least \$1,380.00 to conduct a used oil training class attended by 11 employees that conducted used oil marketing operations in Utah in 2020, this class can be done in conjunction with the transporter training which will save TSOR one training session.

4. Recalculation of Penalty based on New Information: NA

Violation 12: Penalty Total: \$4,560.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

Violation Number 13 (Finding 30)

Violation Description: *Registration UOR-0137 (March 24, 2020), Attachment 2, Condition C, by failing to properly collect used oil samples from TSOR's Genola Facility and West Haven Facility tanks in accordance with sampling Method ASTM-D7831-COLIWASA.*

1. Gravity Based Penalty: \$2,600.00

(a) Potential for Harm – Moderate

Moderate potential for harm to human health and the environment and adverse effect on implementing the used oil program.

(b) Extent of Deviation – Moderate

TSOR deviated significantly from the sampling method but some of the parameters of the tank sampling procedure were met.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: NA

(b) Willfulness/Negligence: 5% Increase @ \$130.00

TSOR was negligent as they did not ensure that employees were properly collecting samples as required by TSOR's Marketer Registration.

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: NA

The Division did not calculate economic benefit for this specific violation due to the difficulty in accurately quantifying this parameter.

4. Recalculation of Penalty based on New Information: NA

Violation 13: Penalty Total: \$2,730.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

Violation Number 14 (Finding 31)

Violation Description: Registration UOR-0137 (March 24, 2020), Attachment 2, Condition B.1 and B.2, by failing to record in the facility's operating record: (1) the date, the time, and the volume of used oil in the tank at the time of lock down; and (2) the time the lock was removed, and the volume of oil removed from the tank for 58 used oil samples collected from the TSOR Genola Facility tanks and 11 samples from the TSOR West Haven Facility tanks (see Finding 31).

1. Gravity Based Penalty: \$2,300.00

(a) Potential for Harm – Moderate

Failure to record all the required information had an adverse effect on implementing the used oil program.

(b) Extent of Deviation – Moderate

TSOR significantly deviated from the requirements but some of the parameters were met.

(c) Multiple Events: Increase @ \$3,800.00 for 38 (39-1) events (\$100.00 per event)

The multi-event penalty was calculated from events that occurred after September 7, 2020.

2. Adjustment Factors:

(a) Good Faith: NA

(b) Willfulness/Negligence: NA

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: NA

The Division did not calculate economic benefit for this specific violation due to the difficulty in accurately quantifying this parameter.

4. Recalculation of Penalty based on New Information: NA

Violation 14: Penalty Total: \$6,100.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

Violation Number 15 (Finding 32)

Violation Description: *Registration UOR-0137 (March 4, 2014), Conditions 2.1 and B.4, and UOR-0137 (March 24, 2020), Conditions B.1 and B.4, by compositing used oil samples collected from individual tanks at TSOR's Genola Facility and TSOR's West Haven Facility, to determine if the used oil met the specification requirements of UAC R315-15-1.2.*

1. Gravity Based Penalty: \$3,800.00

(a) Potential for Harm – Moderate

TSOR failed to collect a representative sample of the used oil in individual tanks as required, resulting in a moderate potential for harm to human health and the environment as dilution of the used oil could have resulted in off-specification used oil to be marketed as on-specification burner fuel to customers.

(b) Extent of Deviation – Major

All used oil samples collected from tanks at TSOR's Genola and West Haven Facilities sent for analysis after September 7, 2020, were composite samples not individual tank samples.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: NA

(b) Willfulness/Negligence: NA

(c) History of Noncompliance:

The Division issued TSOR a Warning Letter on June 17, 2019, which cited TSOR for failing to train its employees as required by the Permit.

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Increase Penalty @ \$3,250.00

The Division estimated that TSOR saved at least \$7,800.00 by collecting used oil samples from 35 individual tanks (after September 7, 2020) and compositing these samples into just nine used oil samples which they then sent for analysis. TSOR admits saving in costs of testing but disagrees on the price per sample. The Division is willing to agree with TSOR's costs upon providing invoices showing the cost to be \$125.00/sample for a total of \$3,250.00 for 26 samples.

4. Recalculation of Penalty based on New Information: NA

Violation 15: Penalty Total: \$7,050.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 211116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)
Notice of Violation No. 211113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

Violation Number 16 (Finding 33)

Violation Description: *Registration UOR-0137 (March 24, 2020), Condition D.1 by failing to collect and analyze at least four additional quality control sample for the 86 used oil samples collected from tanks at TSOR’s facilities in and out of Utah, that were used to market on-specification used oil to customers in and out of Utah (see Finding 33).*

1. Gravity Based Penalty: \$900.00

(a) Potential for Harm – Minor

Minor potential for harm as these were quality control duplicate samples.

(b) Extent of Deviation – Major

TSOR has failed to comply with this requirement since they obtained Used Oil Marketer Registration in 2014.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: 20% Increase Penalty @ \$180.00

Division inspectors attended a TSOR used oil training class for employees conducted in August of 2021 and witnessed the TSOR trainer instruct employees to collect a quality control sample for every 20 used oil samples collected from tanks at TSOR’s facilities in and out of Utah that were used to market on-specification used oil to customers in and out of Utah. TSOR failed to promptly correct this non-compliance as TSOR stated in its response to the NOV that they “implemented the quality control sampling in July of 2022.”

(b) Willfulness/Negligence: NA

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Increase Penalty @ \$500.00

The economic benefits by not analyzing four additional quality controls samples were at least \$1,200.00 (\$300.00 per sample). TSOR admits saving in costs of testing but disagrees on the price per sample. The Division is willing to agree with TSOR costs upon providing invoices showing the cost to be \$125.00/sample for a total of \$500.00 for four samples.

4. Recalculation of Penalty based on New Information: NA

Violation 16: Penalty Total: \$1,580.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

Violation Number 17 (Finding 34)

Violation Description: Registration UOR-0137 (March 4, 2014) Condition 3.1, and UOR-0137 (March 24, 2020), Condition D.3, by failing to preserve 47 used oil samples collected for laboratory analysis at temperatures from 4°C to 6° C in accordance with EPA Analytical Methods 9075 (Total Halogens), 8082A (PCBs), and 1010A (Flash point) (see Finding 34).

1. Gravity Based Penalty: \$600.00

(a) Potential for Harm – Minor

Failure to cool the samples posed a minor potential for harm to human health or the environment.

(b) Extent of Deviation – Major

TSOR has failed comply with this requirement for all samples collected between September 7, 2020, and July of 2021.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: 5% Increase @ \$30.00

(b) Willfulness/Negligence: NA

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: NA

Economic benefit was considered but not applied; benefit negligible.

4. Recalculation of Penalty based on New Information: NA

Violation 17: Penalty Total: \$630.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

Violation Number 18 (Finding 35)

Violation Description: Registration UOR-0137 (March 24, 2020), Condition B.6 and UAC R315-15-7.7, by failing three times to use a Utah-certified laboratory, as specified in UAC R315-15-1.8, to satisfy the analytical requirements of UAC R315-15-7 (see Finding 35).

1. Gravity Based Penalty: \$100.00

(a) **Potential for Harm – Minor**

Failure to use a Utah-certified laboratory posed a minor potential for harm.

(b) **Extent of Deviation – Minor**

TSOR deviated somewhat from the regulator requirement, but the majority of the samples were analyzed by a Utah-certified laboratory.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: NA

(b) Willfulness/Negligence: NA

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: NA

Economic benefit was considered but not applied; benefit negligible.

4. Recalculation of Penalty based on New Information: Although TSOR should have realized this violation by verifying the lab reports upon receiving them, the Division is willing to accept TSOR's counter proposal on the basis that the majority of the samples were analyzed by Summit Environmental Services a Utah-certified laboratory, and those that were not were sent by Summit to Conti without TSOR's knowledge.

Violation 18: Penalty Total: \$0.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

Violation Number 19 (Finding 36)

Violation Description: *Utah Admin. Code R315-15-7.3 by marketing at least 350,648 gallons of used oil collected from tanks at TSOR's Genola Facility to customers as on-specification used oil without verifying, sampling, and analyzing the used oil to ensure it had met the specification requirements of UAC R315-15-1.2 (see Finding 36).*

1. Gravity Based Penalty: \$1,600.00

(a) Potential for Harm – Moderate

Moderate potential for harm to human health and the environment and adverse effect on implementing the Used Oil Program.

(b) Extent of Deviation – Minor

TSOR significantly deviated from the requirements but most of the used oil marketed as burner fuel to customers had been determined to have met the specification requirements for on-specification burner fuel.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: NA

(b) Willfulness/Negligence: NA

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: NA

The Division did not calculate economic benefit for this specific violation due to the difficulty in accurately quantifying this parameter.

4. Recalculation of Penalty based on New Information: NA

Violation 19: Penalty Total: \$1,600.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

Violation Number 20 (Finding 37)

Violation Description: *Utah Admin. Code R315-15-7.2 by shipping 209,389 gallons of off-specification used oil to used oil burners that are prohibited to burn off-specification used oil as specified in UAC R315-15-6.2 (see Finding 37).*

1. Gravity Based Penalty: \$0.00

(a) Potential for Harm – Major

Violations occurred prior to September 7, 2020: No penalty assessed.

(b) Extent of Deviation – Major

Violations occurred prior to September 7, 2020: No penalty assessed.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: NA

(b) Willfulness/Negligence: NA

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: NA

4. Recalculation of Penalty based on New Information: NA

Violation 20: Penalty Total: \$0.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

Violation Number 21 (Finding 38)

Violation Description: *Utah Code § 19- 6-113(3)(c) by knowingly omitting material information, making false material statement and false representation on used oil manifests, records, reports, and other documents filed, maintained, or used for purposes of compliance with this part or RCRA (see Finding 38).*

1. Gravity Based Penalty: \$8,000.00

(a) Potential for Harm – Major

Tracking of used oil from the time of collection until it is recycled, burned, or disposed of is a critical regulatory component of RCRA and DEQ’s Used Oil Program. Making false material statements and representations on transportation records has a high adverse effect on the Division’s implementation of the Used Oil Program.

(b) Extent of Deviation – Moderate

TSOR made false material statements and representation on used oil transportation records, but some records were correct.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: NA

(b) Willfulness/Negligence: 15% Increase @ \$1,200.00

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: NA

The Division did not calculate economic benefit for this specific violation due to the difficulty in accurately quantifying this parameter.

4. Recalculation of Penalty based on New Information: NA

Violation 21: Penalty Total: \$9,200.00

WASTE MANAGEMENT AND RADIATION CONTROL BOARD

Executive Summary

Proposed Stipulation and Consent Order

Tri State Oil Reclaimers, Inc. (UOP-0172)

January 11, 2024

What is the issue before the Board?	This is a proposed Stipulation and Consent Order (SCO) No. 2111117 to resolve Notice of Violation and Compliance Order (NOV/CO) No. 2111114 issued to Tri State Oil Reclaimers, Inc. (TSOR) on May 20, 2022.
What is the historical background or context for this issue?	<p>The NOV/CO was based on findings documented by Division of Waste Management and Radiation Control inspectors regarding used oil storage and processing operations conducted at TSOR's used oil processor facility (Genola Facility), located at 2370 West Mountain Road, Genola, Utah.</p> <p>The SCO includes a total penalty of \$44,245.00. TSOR will make a cash payment of \$22,122.50 within thirty days of the effective date of the SCO. The remaining penalty amount of \$22,122.50 will be deferred and waived by the Director if TSOR complies with the requirements set forth in paragraph 10.2, and the Orders in 10.3, and remains in compliance with all of the provisions of the Act, the Rules, and the State-issued used oil processor permit (UOP 0172), for one year from the effective date of the SCO.</p>
What is the governing statutory or regulatory citation?	§19-6-104 of the Utah Solid and Hazardous Waste Act authorizes the Board to issue orders and approve or disapprove settlements negotiated by the Director with a civil penalty over \$25,000.
Is Board action required?	<p>No, this is an informational item only.</p> <p>The 30-day public comment period will begin on January 8, 2024 and end on February 7, 2024. Following the 30-day public comment period, this matter will be brought before the Board for final action in a future meeting.</p>
What is the Division Director's recommendation?	Not applicable at this time.
Where can more information be obtained?	<p>For technical information, please contact Leonardo Calcagno at (385) 499-0872.</p> <p>For legal information, please contact Elizabeth A. Burns, Assistant Attorney General at (385) 441-4789.</p>



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

May 20, 2022

Charles Welty, Registered Agent
Tri State Oil Reclaimers, Inc.
1770 Otto Road
Cheyenne, WY 82007

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7004 1160 0005 5671 4072

RE: Notice of Violation No. 2111114
Used Oil Processor Permit (UOP-0172)
UTR000013953

Dear Mr. Welty:

Enclosed is a **NOTICE OF VIOLATION AND COMPLIANCE ORDER (NOV/CO)**, Number 2111114, based on findings documented by Division of Waste Management and Radiation Control inspectors regarding used oil storage and processing operations conducted at Tri State Oil Reclaimers, Inc.'s used oil processor facility (Genola Facility), located at 2370 West Mountain Road, Genola, Utah. Please be advised that compliance with this ORDER is mandatory and will not relieve Tri State Oil Reclaimers, Inc. of liability for past violations.

Within 30 days of the date of this NOV/CO, this ORDER requires you to provide certain information to the Director, including written verification that the violations documented in the NOV have been corrected.

Your response to this request will not constitute an administrative contest to the attached NOV. You have 30 days from the date of the attached NOV/CO to contest it in the manner and within the time frame prescribed by R305-7-303, Utah Administrative Code.

If you have any questions, please call Michelle Weis at (801) 536-0256.

Sincerely,

Douglas J. Hansen, Director
Division of Waste Management and Radiation Control

(Over)

DSHW-2022-004856

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Enclosure: Notice of Violation and Compliance Order Number 2111114

c: Eric Edwards, Health Officer, Utah County Health Department
Tyler Plewe, Deputy Director, Utah County Health Department
Jason Garrett, Environmental Health Director, Utah County Health Department
Annette Maxwell, U.S. EPA, Region VIII (ENF-R)
Ashely A. Peck, Partner, Holland & Hart LLP (Email)
Jayci Dinges, HSE Manager, Tri State Oil Reclaimers, Inc. (Email)

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In the Matter of:

**NOTICE OF VIOLATION/
COMPLIANCE ORDER**

**Tri State Oil Reclaimers, Inc.
UOP-0172
UTR000013953**

No. 2111114

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This **NOTICE OF VIOLATION AND COMPLIANCE ORDER (NOV/CO)** is issued by the Director of the Division of Waste Management and Radiation Control (Director) pursuant to the Utah Used Oil Management Act (the Act), Utah Code § 19-6-701 *et seq.*, the Utah Solid and Hazardous Waste Act, Utah Code §19-6-101, *et seq.*, and § 19-6-113. The Director has authority to issue such NOTICES and ORDERS in accordance with Utah Code § 19-6-705 and § 19-6-721.

FINDINGS

1. Tri State Oil Reclaimers, Inc. (“TSOR”) is incorporated in the state of Wyoming and registered to conduct business in the State of Utah (entity 8870599-0143). TSOR is the owner and operator of a used oil processor facility, located at 2370 West Mountain Road, Genola, Utah (Genola Facility).
2. TSOR operates as a used oil processor in the State of Utah under the provisions of the Act, the Utah Solid and Hazardous Waste Act, the Utah Administrative Code (the “Rules”), and a State-issued used oil processor permit (Permit UOP-0172).
3. TSOR is a "person" as defined in Utah Code § 19-1-103(4) and is subject to all applicable provisions of the Act, the Utah Solid and Hazardous Waste Act, the Utah Administrative Code (Rules), and Permit UOP-0172 issued to TSOR as operator of a used oil processor facility in Utah.
4. On February 2, 2018, the Director issued a Used Oil Processor Permit, UOP-0172, to TSOR to operate as a used oil processor at 2370 West Mountain Road, Genola, Utah, under the provisions of the permit.
5. In addition, the Director has issued TSOR another Used Oil Processor Permit UOP-0195 (West Haven Facility), Used Oil Transporter Permit UOP-0135 and Used Oil Marketer Registration UOR-0137, effective October 20, 2020, October 25, 2013, and March 4, 2014, respectively.
6. On June 24, 2021, authorized representatives (inspectors) of the Director conducted an inspection of TSOR used oil processor operations at the Genola Facility. On September 9, 2021, inspectors conducted a subsequent inspection at the Genola Facility to obtain additional used oil records, and to check the integrity of the facility’s used oil storage tanks and the secondary containment system for these tanks.
7. Permit Condition I.H.1 requires that TSOR maintain used oil storage tank records (bulk storage) that document the date, time, the operator’s initials, and volume of the used oil deposited into each tank.

Also, TSOR must record the date, time, the operator's initials, and the destination of the used oil removed or shipped from each tank (including inter-tank transfers).

- 7.1. TSOR failed to document in years 2020 and 2021 (January 1, 2021 to June 24, 2021) multiple loads of used oil accepted, transferred between tanks, and shipped from TSOR's Genola processor facility.
- 7.2. For all storage tank record entries in years 2020 and 2021 (January 1, 2021 to June 24, 2021), TSOR operators failed to record the time used oil was delivered to or shipped from each tank and the destination of the used oil shipped from the facility.
8. Permit Conditions I.D.3 and I.D.4 require TSOR's operators to conduct weekly inspections of used oil storage containers, tanks, and secondary containment systems and keep a written inspection records with the inspector's name, the time and date of the inspection, the condition of the tanks and secondary containment system, any issues discovered during the inspections (e.g. leaking tanks or water accumulation) and any actions taken to resolve these issues.
 - 8.1. TSOR failed to document 136 written inspection records for weekly inspections of the facility's used oil storage tanks, and secondary containment systems in years 2019, 2020, and 2021 (January 1, 2021 to June 24, 2021).
 - 8.2. TSOR's Utah facility manager stated to inspectors, on June 24, 2021, that he did not instruct TSOR employees to complete a written weekly inspection record of the facility's used oil storage tanks or the secondary containment system, as required by Permit Conditions I.D.3 and I.D.4.
9. R315-15-5.5(b) UAC requires that containers and aboveground storage tanks, including their associated pipes and valves used to store used oil at processor facilities, shall be in good condition, with no severe rusting, apparent structural defects, or not leaking.
 - 9.1. Inspectors documented on June 24, 2021, and September 9, 2021, that multiple tanks had leaking tank valves, located on the front of the tanks (north side).
 - 9.2. Inspectors documented on September 9, 2021, that Tank 2 had a leaking rear valve, located beneath the rear of the tank (south side).
 - 9.3. The inspector received an email from TSOR's HSE manager, on September 9, 2021 (@ 1806 hours), stating that TSOR had discovered that the rear valve on Tank 3 was also leaking.
10. Permit UOP-0172, Condition I.K.1 requires TSOR to document and maintain records showing proper characterization, handling, and disposal for used oil related wastes, including oily wastewater, for a minimum of three years.
 - 10.1. Inspectors on June 24, 2021, documented that TSOR failed to document and maintain records showing proper characterization, handling, and disposal of used oil related wastes which includes the oily wastewater pumped out of the secondary containment system.

11. Permit Condition II.C.1 only allows TSOR to store used oil in the tanks specified in Table II.C of the Permit (Tanks No. 1 through 12, each with a maximum capacity of 21,000 gallons).
 - 11.1. Inspectors documented on June 24, 2021, and September 9, 2021, that TSOR had three poly storage tanks (each 1,000-gallon capacity) inside a white box truck located on the east side of the facility's secondary containment system. TSOR placed the box truck and tanks in place sometime after February 2, 2018, and prior to March 20, 2019. The three poly storage tanks are not listed in the facility's permit. TSOR's Utah manager stated to the inspectors on June 24, 2021, and September 9, 2021, that TSOR had stored oily water pumped from the facility's secondary containment system in these tanks in 2018 or 2019.
12. Permit Condition I.M.1 requires TSOR to submit an updated cost estimate for the facility closure plan to the Director, within 60 days following a facility modification, that will cause an increase in financial responsibility required under R315-15-10 UAC.
 - 12.1. Inspectors documented on June 24, 2021, and September 9, 2021, that TSOR had three poly storage tanks (each 1,000-gallon capacity) inside a white box truck located on the east side of the facility's secondary containment system. TSOR failed to submit an updated cost estimate that included these storage tanks to the Director as required by R315-15-10 UAC.
13. Permit Condition I.E.1 requires that in the event of a release of used oil, TSOR operators shall immediately take appropriate actions to clean up the spilled used oil.
 - 13.1. Inspectors documented June 24, 2021, and September 9, 2021, that TSOR failed to immediately clean up oil in the secondary containment system that had leaked from facility's storage tank valves and the used oil spilled by drivers when loading and unloading used oil at the facility.
14. R315-15-5(d) UAC requires used oil processors to label or mark each used oil container clearly with the words "Used Oil."
 - 14.1. Inspectors documented on September 9, 2021, that TSOR failed to label or mark clearly with the words "Used Oil," on two 55-gallons drums that contained used oil and oil contaminated waste that were located in the secondary containment area.
15. Permit Condition I.D.7 requires TSOR to maintain the secondary containment system for used oil containers, storage tanks, and piping and ancillary equipment in accordance with R315-15-5.5(c) UAC. The liner shall be maintained to prevent migration of oil to the soil and groundwater.
 - 15.1. Inspectors documented on September 9, 2021, multiple breaches in the liner of the secondary containment system at the Genola Facility that TSOR had failed to repair. The liner breaches could allow used oil and oily water to migrate out of the system and contaminate underlying soils.
16. Permit Conditions II.F.1 through II.F.5 prohibit Genola Facility employees from managing used oil without a trained employee present until their used oil training is completed. After the initial used oil training the employees are then required to complete an annual used oil refresher training course thereafter. Inspectors reviewed TSOR's employee training records and documented the following:

- 16.1. TSOR failed to provide initial used oil training to six employees, and annual refresher training to five employees in year 2020.
- 16.2. TSOR failed to provide initial used oil training to six employees conducting used oil operations and annual refresher training to four employees from January 1, 2021 through August 29, 2021.
17. Permit Condition I.P.1 and R315-15-13.5(d) UAC require that used oil processor facilities submit an annual used oil processor report to the Director of their used oil activities during the calendar year. The annual report shall contain the following the following information: (1) the EPA identification number, name, and address of the processor/re-refiner facility; (2) the calendar year covered by the report; (3) the quantities of used oil accepted for processing and the manner in which the used oil is processed, including the specific processes employed; (4) the average daily quantities of used oil processed at the beginning and end of the reporting period; (5) an itemization of the total amounts of used oil processed during the reporting period year specifying the type and amounts of products produced, i.e., lubricating oil, fuel oil, etc.; and (6) the amounts of used oil prepared for reuse as a lubricating oil, as a fuel, and for other uses, specifying each type of use, the amounts of used oil consumed or used in the process of preparing used oil for reuse, specifying the amounts and types of waste byproducts generated including waste, water, and the methods and specific locations utilized for disposal.
 - 17.1. TSOR failed to accurately complete information required by R315-15-13.5(d) UAC on the 2020 Used Oil Processor (UOP-0172) Annual Report submitted to the Division on March 26, 2021, as follows:
 - 17.1.1. TSOR's 2020 Used Oil Processor (UOP-0172) Annual Report stated the beginning inventory of used oil stored at the Genola Facility was 50,000 gallons on January 1, 2020. TSOR's Genola Facility tank logs documented that over 200,000 gallons of used oil was stored in the facility tanks on January 1, 2020.
 - 17.1.2. TSOR's 2020 Used Oil Processor (UOP-0172) Annual Report stated the ending inventory of used oil stored at the Genola Facility was 14,365 gallons, on December 31, 2020. TSOR's Genola Facility tank logs documented that over 115,000 gallons of used oil was stored in the facility tanks on December 31, 2020.
 - 17.1.3. TSOR's 2020 Used Oil Processor (UOP-0172) Annual Report stated that the facility shipped 1,623,244 gallons of on-specification used oil burner fuel from the Genola Facility in 2020. The bill of lading (BOL) records, submitted to the Division by TSOR, for shipments of on-specification oil burner fuel in 2020, documented that 1,429,716 gallons of on-specification used oil burner fuel was shipped from the Genola Facility in 2020, which leaves a discrepancy of 193,528 gallons of used oil.
18. Utah Code § 19- 6-113(3)(c) states: "No person shall knowingly omit material information or make any false material statement or representation in any application, label, manifest, record, report, permit, operation plan, or other document filed, maintained, or used for purposes of compliance with this part or RCRA."
 - 18.1. TSOR's Utah Manager, stated to the inspectors that after the Division requested the Genola Facility tank logs in April of 2021, he had "reconstructed" the tank records as employees had not filled out the tank logs, as required.

DETERMINATION OF VIOLATIONS

In accordance with Utah Code § 19-6-701, *et seq.*, and based on the foregoing FINDINGS, TSOR has violated provisions of the Rules, the Act, the Utah Solid and Hazardous Waste Act, and the Used Oil Processor Permit applicable to its facility. Specifically, TSOR has violated the following:

1. Permit Condition I.H.1 by failing to record the required information in tank records for all used oil received and shipped from the facility in 2020 and 2021 (January 1, 2021 to June 24, 2021) (*See Finding 7*).
2. Permit Conditions I.D.3 and I.D.4 by failing to document with written inspection records any weekly inspections of the facility's used oil storage containers, tanks, and secondary containment systems for years 2019, 2020 and 2021 (January 1, 2021 to June 24, 2021) (*See Finding 8*).
3. R315-15-5.5(b) UAC by failing to maintain used oil storage tanks and their associated pipes and valves in good condition (*See Finding 9*).
4. Permit Condition I.K.1 by failing to document and maintain records showing proper characterization, handling, and disposal for used oil related wastes which includes the oily wastewater pumped out of the facility's secondary containment system (*See Finding 10*).
5. Permit Condition II.C.1 by storing used oil in tanks in unpermitted tanks (not identified in the Table II.C of the Permit) (*See Finding 11*).
6. Permit Condition I.M.1 by failing to submit an updated cost estimate for the facility's closure plan to the Director, within 60 days following a facility modification, that caused an increase in financial responsibility required under R315-15-10 UAC (*See Finding 12*).
7. Permit Condition I.E.1 by failing to immediately clean up releases of used oil at the facility (*See Finding 13*).
8. R315-15-5(d) UAC by failing to label drums containing used oil with the words "Used Oil" (*See Finding 14*).
9. Permit Condition I.D.7 by failing to maintain the secondary containment system for used oil containers, storage tanks, and piping and ancillary equipment in accordance with R315-15-5.5(c) UAC (*See Finding 15*).
10. Permit Conditions II.F.1 through II.F.5 by failing to train employees conducting used oil operations at the Genola Facility as required in the years 2020, and 2021 (January 1, 2021 to June 24, 2021) (*See Finding 16*).
11. Permit Condition I.P.1 and R315-15-13.5(d) UAC by failing to accurately complete information required by R315-15-13.5(d) UAC on the Used Oil Processor Annual Report for operating year 2020 (*See Finding 17*).
12. Utah Code § 19- 6-113(3)(c) by knowingly making false material statements and representations on facility tank logs in 2021 (*See Finding 18*).

ORDER

TSOR is hereby Ordered to correct all of the violations cited in this NOV/CO. Correction of these violations is mandatory. TSOR shall:


1. Immediately cease and desist making false material statements, and false records, reports, and other documents filed, maintained, or used for purposes of compliance with the Permit or R315-15 UAC.
2. TSOR shall, within 60 days of effective date of this NOV/CO, submit analytical data that verifies that used oil has not contaminated soils beneath the breaches in the secondary containment system.
3. Within 30 days of the date of issuance of this NOV/CO:
 - a. Submit a revised (corrected) Used Oil Processor Annual Report for operating year 2020 that includes all accurate information required by R315-15-13.5(d) UAC.
 - b. Submit documentation that each of the Genola Facility's used oil storage tanks and associated piping and valves have been inspected, repaired, and certified by a Professional Engineer. Submit a sampling and cleanup plan to the Division for approval for releases of used oil into the environment from leaking tanks/secondary containment.
 - c. Submit documentation that a thorough inspection of the facility's secondary containment system has been completed and that all breaches in the containment system have been repaired by a qualified person.
 - d. Submit, to the Director for approval, an updated cost estimate for the facility which includes the three poly storage tanks or a written statement that these tanks have been removed from the facility.
 - e. TSOR shall provide the Director with the following information and analyses to assure future compliance with TSOR's Permit, the Rules, Utah Code § 19-6-701 and § 19-6-113, *et seq.*:
 - i. The root cause of why each of these violations occurred;
 - ii. the specific corrective actions planned or taken by TSOR, and the results achieved or expected in the future;
 - iii. the date(s) that each of the violations were resolved or shall be resolved, as applicable; and
 - iv. how these corrective actions shall prevent similar violations from recurring.

OPPORTUNITY FOR HEARING

This NOTICE OF VIOLATION AND COMPLIANCE ORDER is effective immediately and shall become final unless Tri State Oil Reclaimers, Inc. administratively contests it. Failure to contest this NOTICE OF VIOLATION AND COMPLIANCE ORDER in the manner and within the time period prescribed by Utah Admin. Code R305-7-303 constitutes a waiver of any right of administrative contest, reconsideration, review, or judicial appeal.

Utah Code Section 19-6-721 provides that violation of any order, plan, rule, or other requirement issued or adopted under Title 19, Ch. 6, Pt. 7 may be subject to a civil penalty of up to \$10,000 per day for each day of violation.

Dated this 20TH day of May 2022

By:  _____
Douglas J. Hansen, Director
Division of Waste Management and Radiation Control

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I mailed a true and correct copy of the foregoing NOTICE OF VIOLATION AND COMPLIANCE ORDER on the 20TH day of May, 2022 by US Certified Mail, Return receipt Requested, to:

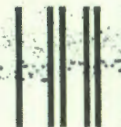
Charles Welty, Registered Agent
Tri State Oil Reclaimers, Inc.
1770 Otto Road
Cheyenne, WY 82007

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7004 1160 0005 5671 4072



Arlene Lovato, Office Manager

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

DIVISION OF WASTE MANAGEMENT
AND RADIATION CONTROL
PO BOX 144880
SALT LAKE CITY UT 84114-4880



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Charles Welty, Registered Agent
Tri State Oil Reclaimers, Inc.
1770 Otto Road
Cheyenne, WY 82007

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Charles Welty Addressee

B. Received by (Printed Name) C. Date of Delivery
5/26

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number 7004 1160 0005 5671 4072 ^{PS} DSHW-2027-004856
(Transfer from se)

PROPOSED – SETTLEMENT NEGOTIATIONS

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In the Matter of:

Tri State Oil Reclaimers, Inc.
Notice of Violation and Compliance Order
(NOV/CO) No. 2111114
UOP-0172
UTR000013953

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STIPULATION AND CONSENT ORDER
No. 2111117

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This **STIPULATION AND CONSENT ORDER** (CONSENT ORDER) is issued by the Director of the Utah Division of Waste Management and Radiation Control (the Director) pursuant to the Utah Administrative Code R315-15 (the Rules), Utah Used Oil Management Act (the Act), Utah Code § 19-6-701, *et seq.*, and the Utah Solid and Hazardous Waste Act, Utah Code § 19-6-101, *et seq.*

JURISDICTION

1. The Director has jurisdiction over the subject matter of this CONSENT ORDER pursuant to Utah Code §§ 19-6-705(2)(c), 19-6-721, 19-6-107, and 19-6-112 and jurisdiction over Tri State Oil Reclaimers, Inc. Tri State Oil Reclaimers, Inc., consents to and will not challenge issuance of this CONSENT ORDER or the Director’s jurisdiction to enter and enforce this CONSENT ORDER. Tri State Oil Reclaimers, Inc. and the Director are the parties to this agreement.
2. The Utah Waste Management and Radiation Control Board has authority to review and approve or disapprove this CONSENT ORDER pursuant to Utah Code § 19-6-104(1)(e).

FINDINGS

3. Tri State Oil Reclaimers, Inc. (TSOR) is incorporated in the State of Wyoming and registered to conduct business in the State of Utah (Entity 8870599-0143). TSOR is the owner and operator of a used oil processor facility located in Utah County, at 2370 West Mountain Road, Genola, Utah (Genola Facility).
4. TSOR operates as a used oil processor in the State of Utah under the provisions of the Act, the Utah Solid and Hazardous Waste Act, the Rules, and a State-issued used oil processor permit (Permit UOP-0172).
5. TSOR is a “person” as defined in Utah Code § 19-1-103(4) and is subject to all applicable provisions of the Act, the Utah Solid and Hazardous Waste Act, the Rules, and Permit UOP-0172 issued to TSOR as operator of a used oil processor facility in Utah.
6. Based on findings determined during inspections of the Genola Facility on June 24, 2021, and September 9, 2021, and additional review of records, the Director issued Notice of Violation and Compliance Order (NOV/CO) No. 2111114 on May 20, 2022, which cited violations of the Act, the Utah Solid and Hazardous Waste Act, the Rules, and Permit UOP-0172.

PROPOSED – SETTLEMENT NEGOTIATIONS

7. On July 15, 2022, TSOR filed a written response to the NOV/CO.
8. On accordance with the Civil Penalty Policy, Utah Admin. Code (UAC) R315-102, which considers such factors as the gravity of the violation, the extent of deviation from the rules, the potential for harm to human health and the environment, good faith efforts to comply, and other factors, the Director calculated and proposed a penalty based on the violations alleged in the NOV/CO No. 2111114.

STIPULATION AND CONSENT ORDER

9. This CONSENT ORDER has been negotiated in good faith and the parties now wish to fully resolve NOV/CO No. 2111114 without further administrative or judicial proceedings.
10. In full settlement of the violations alleged in NOV/CO No. 2111114, TSOR shall:
 - 10.1. Pay a penalty of \$44,245.00 (forty-four thousand two-hundred forty-five dollars).
 - 10.2. A cash payment of \$22,122.50 (twenty-two thousand one-hundred twenty-two dollars and fifty cents) shall be made within thirty days of the effective date of this CONSENT ORDER. Payment shall be made to the Utah Department of Environmental Quality, c/o Douglas J. Hansen, Director, Division of Waste Management and Radiation Control, P.O. Box 144880, Salt Lake City, Utah 84114-4880.
 - 10.2.1. The remaining penalty amount, \$22,122.50 (twenty-two thousand one-hundred twenty-two dollars and fifty cents), shall be deferred and waived by the Director if TSOR complies with ¶10.2, the Orders in ¶10.3, and remains in compliance with all of the provisions of the Act, the Utah Solid and Hazardous Waste Act, the Rules, and the State-issued Genola Facility used oil processor permit (Permit UOP-0172), for one year from the effective date of this CONSENT ORDER. For the year, violations that are minor in potential for harm and minor in extent of deviation shall not trigger payment of the deferred penalty amount. These minor violations are still subject to the regular enforcement process, including return to compliance and appropriate penalties.
 - 10.2.2. If the Director determines that TSOR has failed to comply with the requirements of ¶10.2.1, the Director will provide written notification to TSOR that the deferred payment of \$22,122.50 (twenty-two thousand one-hundred twenty-two dollars and fifty cents) has not been waived due to TSOR's failure to comply with the requirements of the CONSENT ORDER.
 - 10.2.3. TSOR shall make a cash payment of \$22,122.50 (twenty-two thousand one-hundred twenty-two dollars and fifty cents), within 60 days of the date that the Director notifies TSOR of their failure to comply with this CONSENT ORDER. Payment shall be made to the Utah Department of Environmental Quality, c/o Douglas J. Hansen, Director, Division of Waste Management and Radiation Control, P.O. Box 144880, Salt Lake City, Utah 84114-4880.

PROPOSED – SETTLEMENT NEGOTIATIONS

- 10.3. The Director hereby Orders TSOR Genola Facility to:
- 10.3.1. Submit the Used Oil Processor Annual Report for its Genola Facility for operating year 2022, and an updated Used Oil Processor Annual Report for its Genola Facility for operating year 2021, within sixty days of the effective date of this CONSENT ORDER. To the extent that TSOR records are not available, the Reports may include written explanations of why the Reports are incomplete or otherwise deficient.
 - 10.3.2. On or before the 15th day of each month, until the one-year anniversary of the effective date of this CONSENT ORDER, a corporate officer of Tri State Oil Reclaimers, Inc. shall submit a statement to the Director certifying that for the preceding month:
 - 10.3.2.1. As required by Permit Condition I.H.1, the date, time, operator's initials, volume of used oil removed from each tank, and the destination of each load of used oil removed from each individual tank has been recorded in the used oil tank record.
 - 10.3.2.2. As required by Permit Conditions I.D.3 and I.D.4, that TSOR has (1) inspected each container and tank containing used oil, and the secondary containment system at least weekly and (2) for each inspection, recorded in the Genola operating record the inspector's name; the time and date of the inspection; the condition of each tank, container, and secondary containment system; and corrective actions taken to resolve the issues.
 - 10.3.2.3. As required by UAC R315-15-5.5(c)(4 and 5) and Permit Conditions I.D.8 and I.K.1, that TSOR has: (1) removed any accumulations of water (includes stormwater), used oil, or other liquids in the secondary containment system within 24 hours of discovery; and (2) maintained records documenting the proper characterization, handling, and disposal of used oil related wastes (e.g., oily rags, absorbent, and oily wastewater).
 - 10.3.2.4. That TSOR has only stored used oil in tanks, containers, or vehicles that are allowed by the current Permit.
 - 10.3.2.5. As required by Utah Admin. Code R315-15-5(d), that TSOR has properly labeled each container storing used oil with the words "Used Oil."
 - 10.3.2.6. As required by Permit Conditions II.F.1 through II.F. 5, that each TSOR employee conducting used oil operations has been adequately trained.
 - 10.3.2.7. A description and corrective action of any non-compliance identified by TSOR, with the recordkeeping, labeling, and training requirements described above in ¶¶ 10.3.2.1 through 10.3.2.6. The description should include the date(s) and type(s) of non-compliance, why the non-compliance occurred, and the immediate actions taken by TSOR to return to compliance with the Rules and Permit.

PROPOSED – SETTLEMENT NEGOTIATIONS

- 10.3.3. On or before the 15th day of May 2024, August 2024, November 2024, and February 2025, for the previous three months, TSOR shall submit to the Director complete copies of : (1) storage tank records for required Permit Condition I.H.1; (2) weekly facility inspection records required by Permit Conditions I.D.3 and I.D.4; (3) records documenting that used oil related wastes (e.g., oily rags, absorbent, oily wastewater, and oily stormwater) have been properly characterized to determine if the wastes are hazardous or non-hazardous and have been sent to a facility permitted to accept the type of oily waste generated in accordance with Permit Conditions I.K.1 through I.K.2. and the Rules; and (4) used oil training records for employees, initial and annual refresher training, or any additional training that is required if the Permit is modified or the facility’s used oil handling procedures have been updated as required by Permit Conditions II.F.1 through II.F.5.
- 10.3.4. For each submittal required by ¶¶ 10.3.1, 10.3.2, and 10.3.3, above, TSOR shall include the following statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision according to a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

EFFECT OF CONSENT ORDER

11. For the purposes of this CONSENT ORDER, the parties agree and stipulate to the above stated facts. The obligations in this CONSENT ORDER apply to and are binding upon the Division of Waste Management and Radiation Control and upon TSOR and any of TSOR’s successors, assigns, or other entities or persons otherwise bound by law.
12. The stipulations contained herein are for the purposes of settlement and shall not be considered admissions by any party and shall not be used by any person related or unrelated to this CONSENT ORDER for purposes other than determining the basis of this CONSENT ORDER. Nothing contained herein shall be deemed to constitute a waiver by the State of Utah of its right to initiate enforcement action, including civil penalties, against TSOR in the event of future non-compliance with this CONSENT ORDER, with the Act, the Utah Solid and Hazardous Waste Act, the Rules, or with Permit UOP-0172; nor shall the State of Utah be precluded in any way from taking appropriate action should such a situation arise again at the TSOR facility. However, entry into this CONSENT ORDER shall relieve TSOR of all liability for violations which did arise or could have arisen with respect to the allegations contained in NOV/CO No. 2111114.

PROPOSED – SETTLEMENT NEGOTIATIONS

EFFECTIVE DATE

- 13. This CONSENT ORDER shall become effective upon the date of execution by the Director.

PUBLIC PARTICIPATION

- 14. This CONSENT ORDER 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 his consent if any comment received during the Comment Period discloses facts or considerations indicating the CONSENT ORDER is inappropriate, improper, or inadequate.

SIGNATORY

- 15. The undersigned representative of Tri State Oil Reclaimers, Inc. certifies she is authorized to enter into this CONSENT ORDER and to execute and legally bind Tri State Oil Reclaimers, Inc.

Pursuant to the Utah Used Oil Management Act (the Act), Utah Code § 19-6-701, *et seq.*, in the *Matter of Tri State Oil Reclaimers, Inc., Notice of Violation and Compliance Order No. 2111114*, the parties hereto mutually agree and consent to STIPULATION AND CONSENT ORDER No. 2111117 as evidenced below:

TRI STATE OIL RECLAIMERS, INC.

THE STATE OF UTAH
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WASTE MANAGEMENT
AND RADIATION CONTROL

Sharna Welty, Vice President

Douglas J. Hansen, Director

Date: _____

Date: _____



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111117**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0172 – Genola Facility
Notice of Violation No. 2111114 Draft Total Proposed Penalty Amount (P2): \$44,245.00

Violation Number 1 (Finding 7)

Violation Description: *Permit UOP-0172, Condition I.H.1 by failing to record the required information in tank records for all used oil received and shipped from the facility in 2020 and 2021 (January 1, 2021 to June 24, 2021)*

1. Gravity Based Penalty: \$2,000.00

(a) Potential for Harm – Moderate

Failing to keep all required information in the tank resulted in potential risk of exposure to humans and the environment. Employees could not discern if the used oil in a tank had been sampled or tested prior to marketing the oil to on-specification used oil burners in Utah and surrounding States. As asphalt plants do not have the safety controls required to burn off-specification used oil, their employees could have been harmed by breathing exhaust from the asphalt plants and subsequently surrounding soils and surface waters also could have been contaminated.

Failure to maintain accurate used oil storage tank logs Used oil processor' tank records are fundamental to the continued integrity of the Used Oil Program. These documents are critical as they are used to evaluate Tri State Oil Reclaimers, Inc. (TSOR)'s compliance with their Used Oil Processor Permit, and Utah Code R315-15 (Rules.)

(b) Extent of Deviation – Moderate

The extent of the deviation is significant but some of the recording requirements were met.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: 15% Increase @ \$300.00

TSOR has failed to promptly correct this violation or provide verification that the facility has returned to compliance as ordered in the NOV/CO, which subsequently has caused the Director to make additional efforts to verify that TSOR returned to compliance.

(b) Willfulness/Negligence: 15% Increase @ \$300.00

TSOR should have known that the failure to record all shipments accepted and shipped from the facility could result in the marketing of untested used oil to on-specification used oil burners and managers should have periodically reviewed the tank log records to assure that the records complied with the requirements of the Permit and the Rules.

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Increase Penalty @ \$600.00

The Division had difficulty in accurately quantifying the economic benefit to TSOR due to the fact that some shipments of used oil were never recorded or only some of the required information was recorded for shipments in the tank logs. However, TSOR did have an economic benefit as it takes approximately 15 minutes for a driver to fill out the tank log. A conservative estimate for the labor costs saved by TSOR for six employees to complete the tank logs from May 20, 2020, to June 24, 2021, is \$600.00.

4. Recalculation of Penalty based on New Information: NA

Violation 1: Penalty Total: \$3,200.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111117**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0172 – Genola Facility
Notice of Violation No. 2111114 Draft Total Proposed Penalty Amount (P2): \$44,245.00

Violation Number 2 (Finding 8)

Violation Description: *Permit Conditions I.D.3 and I.D.4 by failing to document with written inspection records any weekly inspections of the facility’s used oil storage containers, tanks, and secondary containment systems for years 2019, 2020 and 2021.*

1. Gravity Based Penalty: \$2,000.00

(a) Potential for Harm – Moderate

There was a moderate risk of exposure to human health and the environment and recordkeeping is a critical component of the Used Oil Program to evaluate a facilities regulatory compliance.

(b) Extent of Deviation – Moderate

TSOR failed to have any written record of the required weekly inspections (52) of the facility’s used oil storage containers, tanks, and secondary containment system from May 20, 2020, through June 24, 2021. However, TSOR did document the inspections of the Genola Facility’s safety and emergency equipment in that same time period and a total of 25 events was used to calculate the penalty.

(c) Multiple Events: Increase @ \$3,000.00 for 25 events (\$120.00 per event)

2. Adjustment Factors:

(a) Good Faith: 15% Increase @ \$750.00

TSOR has failed to promptly correct this violation or provide verification that the facility has returned to compliance as ordered in the NOV/CO, which subsequently has caused the Director to make additional efforts to verify that TSOR returned to compliance.

(b) Willfulness/Negligence: 15% Increase @ \$750.00

On June 24, 2021, TSOR’s Utah Manager stated to Division inspectors that he would instruct employees to conduct and document the weekly inspections as required by the Permit. On June 9, 2022, in a meeting with TSOR’s Utah Manager, a Division inspector asked if TSOR employees were conducting weekly inspection of the Genola Facility as required by the Permit. TSOR’s Manager stated that employees had conducted and documented weekly inspection of the facility most of the time but that they sometimes “skipped a week.”

(c) History of Noncompliance: 15% Increase @ \$750.00

On June 17, 2019, the Division issued TSOR Warning Letter No.1906042, citing TSOR’s failure to conduct or document the weekly inspections of the facility. TSOR’s Safety Manager stated, “From now on the site will use the inspection sheets provided and they will be sent to TSO in a (*sic*) cheyenne (*sic*) at the completion of each year.”

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Increase Penalty @ \$255.00

The Division estimated that TSOR saved at least \$255.00 in employee labor cost saving by failing to record 51 weekly inspections from May 20, 2020, through June 24, 2021 (.25 hrs./inspection @ \$5.00 x 52 events).

4. Recalculation of Penalty based on New Information: NA

Violation 2: Penalty Total: \$7,505.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111117**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0172 – Genola Facility
Notice of Violation No. 2111114 Draft Total Proposed Penalty Amount (P2): \$44,245.00

Violation Number 3 (Finding 9)

Violation Description: *Utah Admin. Code R315-15-5.5(b) by failing to maintain used oil storage tanks and their associated pipes and valves in good condition.*

1. Gravity Based Penalty: \$200.00

(a) Potential for Harm – Minor

There was a minor risk of exposure to human health and the environment as the Genola Facility's tanks have a secondary containment system to contain released of used oil and the Tank Farm is enclosed by a fence and the access gate is locked when facility personnel are not present.

(b) Extent of Deviation – Minor

At the time of inspection, most tanks and auxiliary equipment were in good condition.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: 10% Increase @ \$20.00

TSOR failed to provide verification, as ordered in the NOV/CO, in TSOR's response to the NOV/CO, that the facility has returned to compliance with the Rules and the Permit, which subsequently caused the Director to make additional efforts to verify that TSOR returned to compliance.

(b) Willfulness/Negligence: NA

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Increase Penalty @ \$420.00

The Division estimated that the parts and labor costs for the replacement or repair of four valves to be \$420.00.

4. Recalculation of Penalty based on New Information: NA

Violation 3: Penalty Total: \$640.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 211117**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0172 – Genola Facility
Notice of Violation No. 211114 Draft Total Proposed Penalty Amount (P2): \$44,245.00

Violation Number 4 (Finding 10)

Violation Description: *Permit Condition I.K.1 by failing to document and maintain records showing proper characterization, handling, and disposal for used oil related wastes which includes the oily wastewater pumped out of the facility's secondary containment system.*

1. Gravity Based Penalty: \$3,200.00

(a) Potential for Harm – Moderate

There was a moderate risk of exposure to human health and the environment as TSOR marketed 60,000 gallons and 80,000 gallons of off-specification used oil that contained levels of lead at 116 ppm and 291 ppm, respectively. TSOR failed to determine if the oily waste generated from the handling of this off-specification used oil was a hazardous or a non-hazardous waste prior to disposal at Utah municipal landfill.

(b) Extent of Deviation – Major

TSOR does not have any written records documenting proper disposal of oily wastes since the facility was permitted in February of 2018.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: 15% Increase @ \$480.00

TSOR has failed to promptly correct this violation or provide verification that the facility has returned to compliance as ordered in the NOV/CO, which subsequently has caused the Director to make additional efforts to verify that TSOR returned to compliance.

(b) Willfulness/Negligence: NA

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: NA

Economic benefit was not calculated due to difficulty in assessing TSOR's cost savings as it is unknown how much oily waste or stormwater was generated or disposed of by the facility.

4. Recalculation of Penalty based on New Information: NA

Violation 4: Penalty Total: \$3,680.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111117**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0172 – Genola Facility

Notice of Violation No. 2111114 Draft Total Proposed Penalty Amount (P2): \$44,245.00

Violation Number 5 (Finding 11)

Violation Description: *Permit Condition II.C.1 by storing used oil in unpermitted tanks (not identified in Table II.C of the Permit).*

1. Gravity Based Penalty: \$3,800.00

(a) Potential for Harm – Moderate

There was a moderate risk of exposure to human health and the environment as the unpermitted tanks did not have a secondary containment system, and a moderate adverse effect on the regulatory purposes for implementing the Used Oil Program.

(b) Extent of Deviation – Major

The Division can document that these unpermitted tanks were in place at the Genola Facility since at least September 10, 2018.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: 15% Increase @ \$570.00

TSOR has failed to promptly correct this violation or provide verification that the facility has returned to compliance as ordered in the NOV/CO, which subsequently has caused the Director to make additional efforts to verify that TSOR returned to compliance.

(b) Willfulness/Negligence: 15% Increase @ \$570.00

TSOR was aware that storage of used oil in unpermitted tanks was not allowed by the Permit.

(c) History of Noncompliance: 20% Increase @ \$760.00

On May 1, 2017, the Director issued TSOR a Warning Letter for storing over 200,000 gallons of used oil in unpermitted frac tanks at what is now the TSOR Genola Facility.

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Increase Penalty @ \$650.00

Updating the Genola Facility Permit to include the unpermitted tanks, if approved by the Division would have been thousands of dollars. However, the economic benefit to TSOR was calculated as only \$650.00, which includes Division fees to apply for a Permit modification and professional review fees for processing the modification as the Division would not have approved the storage of used oil in these types of tanks (poly), which would limit the professional review costs.

4. Recalculation of Penalty based on New Information: NA

Violation 5: Penalty Total: \$6,350.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111117**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0172 – Genola Facility
Notice of Violation No. 2111114 Draft Total Proposed Penalty Amount (P2): \$44,245.00

Violation Number 6 (Finding 12)

Violation Description: *Permit Condition I.M.1 by failing to submit an updated closure cost estimate for the facility’s closure plan to the Director, within 60 days following a facility modification, that caused an increase in financial responsibility required under Utah Administrative. Code (UAC) R315-15-10.*

1. Gravity Based Penalty: \$900.00

(a) Potential for Harm – Minor

There was a minor risk of exposure to human health and the environment.

(b) Extent of Deviation – Major

TSOR failed to increase its financial responsibility required by the Permit and UAC R315-14-10.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: NA

(b) Willfulness/Negligence: NA

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Considered but not applied; benefit negligible

4. Recalculation of Penalty based on New Information: NA

Violation 6: Penalty Total: \$900.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 211117**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0172 – Genola Facility
Notice of Violation No. 2111114 Draft Total Proposed Penalty Amount (P2): \$44,245.00

Violation Number 7 (Finding 13)

Violation Description: *Permit Condition I.E.1 by failing to immediately clean up releases of used oil at the facility.*

1. Gravity Based Penalty: \$2,000.00

(a) Potential for Harm – Moderate

There was a moderate risk of exposure to human health and the environment.

(b) Extent of Deviation – Moderate

Significantly deviates from the regulatory requirements; however, some releases of used oil had been remediated by facility personnel.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: NA

(b) Willfulness/Negligence: 5% Increase @ \$100.00

TSOR is aware that releases of used oil are required to be remediated immediately.

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Considered but not applied; benefit negligible

4. Recalculation of Penalty based on New Information: NA

Violation 7: Penalty Total: \$2,100.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111117**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0172 – Genola Facility
Notice of Violation No. 2111114 Draft Total Proposed Penalty Amount (P2): \$44,245.00

Violation Number 8 (Finding 14)

Violation Description: R315-15-5(d) UAC by failing to label drums containing used oil with the words “Used Oil.”

1. Gravity Based Penalty: \$40.00

(a) Potential for Harm – Minor

There was a minor risk of exposure to human health and the environment at the Genola Facility’s as the drums were closed inside of a fenced area that is locked when facility personnel are not present.

(b) Extent of Deviation – Minor

The extent of deviation was minor as most 55-gallon drums at the facility were properly labeled.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: NA

(b) Willfulness/Negligence: NA

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Considered but not applied; benefit negligible.

4. Recalculation of Penalty based on New Information: NA

Violation 8: Penalty Total: \$40.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111117**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0172 – Genola Facility
Notice of Violation No. 2111114 Draft Total Proposed Penalty Amount (P2): \$44,245.00

Violation Number 9 (Finding 15)

Violation Description: *Permit Condition I.D.7 by failing to maintain the secondary containment system for used oil containers, storage tanks, and piping and ancillary equipment in accordance with UAC R315-15-5.5(c).*

1. Gravity Based Penalty: \$2,600.00

(a) Potential for Harm – Moderate

There was a moderate risk of exposure to human health and the environment as soils/groundwater could have been impacted and a large release of used oil could have allowed oil to leak under the liner and flow adjacent roads used by employees.

(b) Extent of Deviation – Moderate

Significantly deviates from the regulatory requirements but some of the requirements were met.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: NA

(b) Willfulness/Negligence: 5% Increase @ \$130.00

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Increase \$300.00 (Labor and Materials)

The Division had difficulty estimating the cost benefit as TSOR did not provide documentation of the costs to repair the liner, but the Division estimated a minimum cost to be \$300.00 (labor and materials) with the assumption that TSOR employees completed the repairs.

4. Recalculation of Penalty based on New Information: NA

Violation 9: Penalty Total: \$3,030.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111117**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0172 – Genola Facility
Notice of Violation No. 2111114 Draft Total Proposed Penalty Amount (P2): \$44,245.00

Violation Number 10 (Finding 16)

Violation Description: *Permit Conditions II.F.1 through II.F.5 by failing to train employees conducting used oil operations at the Genola Facility as required in the years 2020, and 2021 (January 1, 2021, to June 24, 2021).*

1. Gravity Based Penalty: \$3,800.00

(a) Potential for Harm – Moderate

Failure to train employees resulted in multiple non-compliances with the Permit and which resulted in a moderate potential for harm to human health and the environment and also has an adverse effect on implementing the Used Oil Program.

(b) Extent of Deviation – Major

TSOR failed to provide used oil training to at least eight employees conducting used oil operations at the Genola Facility in 2020.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: NA

(b) Willfulness/Negligence: NA

(c) History of Noncompliance: 20% Increase @ \$760.00

The Division issued TSOR a Warning Letter on June 17, 2019, which cited TSOR for failing to train its employees as required by the Permit.

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Increase Penalty @ \$1,140.00

The Division estimated that TSOR saved employee labor costs of at least \$1,140.00 to conduct a used oil training class attended by eight employees that conducted used oil operations at the Genola Facility.

4. Recalculation of Penalty based on New Information: NA

Violation 10: Penalty Total: \$5,700.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111117**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0172 – Genola Facility
Notice of Violation No. 2111114 Draft Total Proposed Penalty Amount (P2): \$44,245.00

Violation Number 11 (Finding 17)

Violation Description: *Permit Condition I.P.1 and UAC R315-15-13.5(d) by failing to accurately complete information required on the TSOR Used Oil Processor Annual Report, submitted to the Division in 2021, for operating year 2020.*

1. Gravity Based Penalty: \$2,000.00

(a) Potential for Harm – Moderate

There was a moderate risk of exposure to human health and the environment by failing to submit information required by Permit Condition I.P.1 and UAC R315-15-13.5(d).

(b) Extent of Deviation – Moderate

Although TSOR failed to submit significant amounts of information required in its Use Oil Annual Report, some of the information was submitted.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: 20% Increase @ \$400.00

TSOR has failed to submit a revised 2020 Used Oil Processor Annual Report as ordered in the NOV/CO, which subsequently has caused the Director to make additional efforts to have TSOR submit a revised Annual Report.

(b) Willfulness/Negligence: 15% Increase @ \$300.00

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Economic benefit was not calculated due to difficulty in assessing TSOR's cost savings.

4. Recalculation of Penalty based on New Information: NA

Violation 11: Penalty Total: \$2,700.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111117**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0172 – Genola Facility
Notice of Violation No. 2111114 Draft Total Proposed Penalty Amount (P2): \$44,245.00

Violation Number 12 (Finding 18)

Violation Description: *Utah Code § 19- 6-113(3)(c) by knowingly making false material statements and representations on facility tank logs in 2021.*

1. Gravity Based Penalty: \$8,000.00

(a) Potential for Harm – MAJOR

Tracking of used oil from the time of collection until it is recycled, burned, or disposed of is a critical regulatory component of RCRA and DEQ’s Used Oil Program. Making false material statements and representations on facility tank logs has a high adverse effect on the Division’s implementation of the Used Oil Program.

(b) Extent of Deviation – MODERATE

TSOR made false material statements and representation on multiple tank logs, but some entries were correct.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: NA

(b) Willfulness/Negligence: 5% Increase @ \$400.00

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: NA

4. Recalculation of Penalty based on New Information: NA

Violation 12: Penalty Total: \$8,400.00

WASTE MANAGEMENT AND RADIATION CONTROL BOARD

Executive Summary

Approval of Proposed Stipulation and Consent Order

Clean Harbors Environmental Services

January 11, 2024

What is the issue before the Board?	This is a proposed Stipulation and Consent Order (SCO), No. 2212143 to resolve Notice of Violation and Compliance Order (NOV/CO) No. 2201008, issued to Clean Harbors Environmental Services (CHES) on March 28, 2022.
What is the historical background or context for this issue?	<p>The NOV/CO was based on information documented during an inspection at the Clean Harbors Aragonite facility in June 2021 and a subsequent review of documents (from June 2021 through October 2021) related to the transport of hazardous waste.</p> <p>The violations noted in the NOV/CO have been resolved.</p> <p>The SCO includes a total penalty of \$40,080.00. CHES will pay a monetary penalty of \$20,040.00, while \$20,040.00 will be held in abeyance if CHES completes requirements set forth in Paragraph 12 of the SCO (attached).</p>
What is the governing statutory or regulatory citation?	§19-6-104 of the Utah Solid and Hazardous Waste Act authorizes the Board to issue orders and approve or disapprove settlements negotiated by the Director with a civil penalty over \$25,000.
Is Board action required?	<p>Yes, this is a Board Action item.</p> <p>The proposed SCO was presented to the Board as an information item on November 9, 2023.</p>
What is the Division Director's recommendation?	<p>A 30-day public comment period commenced on November 2, 2023, and ended on December 1, 2023. No comments were received.</p> <p>The Division Director recommends approval of the proposed SCO.</p>
Where can more information be obtained?	<p>For technical information, please contact Kari Lundeen at (385) 499-4923. For legal information, please contact Hayley Sousa at (385) 977-4857.</p> <p>The SCO and the supporting documentation were provided to the Board in their November 9, 2023 Board packet.</p>

WASTE MANAGEMENT AND RADIATION CONTROL BOARD

Executive Summary

Approval of Proposed Stipulation and Consent Order

Clean Harbors Aragonite, LLC

January 11, 2024

What is the issue before the Board?	This is a proposed Stipulation and Consent Order (SCO), No. 2210117, to resolve Notice of Violation and Compliance Order (NOV/CO) No. 2205051, issued to Clean Harbors Aragonite, LLC (CHA) on June 24, 2022.
What is the historical background or context for this issue?	<p>The NOV/CO was based on information documented during an inspection at the facility on August 30 through September 16, 2021, and several self-reported notices of noncompliance for the time period of October 1, 2020, to September 30, 2021 (Fiscal Year 2021).</p> <p>The violations noted in the NOV/CO have been resolved.</p> <p>The SCO includes a penalty of \$90,030.50, of which \$75,030.50 will be a cash payment and \$15,000 of which has been deferred and may be vacated if CHA is able to meet the criteria laid out in the proposed SCO.</p> <p>Copies of the NOV/CO, the SCO, and the penalty narrative are included in this Board packet.</p>
What is the governing statutory or regulatory citation?	§19-6-104 of the Utah Solid and Hazardous Waste Act authorizes the Board to issue orders and approve or disapprove settlements negotiated by the Director with a civil penalty over \$25,000.
Is Board action required?	<p>Yes, this is a Board Action Item.</p> <p>The proposed SCO was presented to the Board as an information item on November 9, 2023.</p>
What is the Division Director's recommendation?	<p>The 30-day public comment period began November 2, 2023 and ended on December 1, 2023. No comments were received.</p> <p>The Division Director recommends approval of the proposed SCO.</p>
Where can more information be obtained?	<p>Please contact Adam Wingate by email at awingate@utah.gov or by phone at (385) 499-0293.</p> <p>The SCO and the supporting documentation were provided to the Board in their November 9, 2023 Board packet.</p>