



State of Utah

SPENCER J. COX
Governor

DEIDRE HENDERSON
Lieutenant Governor

Department of
Environmental Quality

Kimberly D. Shelley
Executive Director

DIVISION OF WASTE MANAGEMENT
AND RADIATION CONTROL

Douglas J. Hansen
Director

A meeting of the Waste Management and Radiation Control Board has been scheduled for November 9, 2023, 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 October 12, 2023 Board meeting..... Tab 1
(Board Action Item).
- V. Petroleum Storage Tanks Update..... Tab 2
- VI. Administrative Rules Tab 3
 - 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).**
 - B. Approval from 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).**

(Over)

VII. Hazardous Waste Section Tab 4

- A. Proposed Stipulation and Consent Order between the Director and Clean Harbors Environmental Services (Information Item).
- B. Proposed Stipulation and Consent Order between the Director and Clean Harbors Aragonite, LLC (Information Item).
- C. Approval of Proposed Stipulation and Consent Order between the Director and Utah State University (**Board Action Item**).

VIII. Director's Report.

IX. Other Business.

- A. Miscellaneous Information Items.
- B. Scheduling of next Board Meeting (January 11, 2024).

X. Adjourn.

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

Waste Management and Radiation Control Board Meeting Minutes
Utah Department of Environmental Quality
Multi-Agency State Office Building (Conf. Room #1015)
195 North 1950 West, SLC
October 12, 2023
1:30 p.m.

Board Members Participating at Anchor Location: Brett Mickelson (Chair), Dennis Riding (Vice-Chair), Jeremy Hawk, Dr. Steve McIff, Kim Shelley, Vern Rogers, Shane Whitney

Board Members Participating Virtually: Mark Franc, Nathan Rich, Scott Wardle

Board Members Excused/Absent: Dr. Richard Codell, Danielle Endres

UDEQ Staff Members Participating at Anchor Location:

Brent Everett, Doug Hansen, Morgan Atkins, Elizabeth Burns, Brenden Catt, Tyler Hegburg, Jalynn Knudsen, Arlene Lovato, Judy Moran, Stevie Norcross, Mike Pecorelli, Bret Randall, Elisa Smith, Brian Speer

Others Attending at Anchor Location: Ben Bernett, Steve Gurr, 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.

Vern Rogers announced he will abstain from voting on Agenda Item VIII (A.& B.)

IV. Approval of the meeting minutes for the September 14, 2023 Board meeting (Board Action Meeting).

It was moved by Dennis Riding and seconded by Shane Whitney and UNANIMOUSLY CARRIED to approve the September 14, 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 September 2023, is \$32,491,241.00. 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. FY2023 Petroleum Storage Tanks Fund Actuarial Review (Information Item).

Michael Pecorelli, Division of Environmental Response and Remediation (DERR), Environmental Assurance Program Section Manager, presented information on the annual actuarial report for the PST Fund. Information presented shows the PST Fund is in a positive equity balance and continuing to trend in a positive direction. With the recent addition of aboveground petroleum storage tanks (APSTs) to the PST Fund, there could be changes to future predictions.

Dennis Riding asked for clarification on the projected costs to close claims and the projection for the number of releases per year. Mr. Pecorelli stated that the predictions are typically fairly close for the next year unless

there is a catastrophic release. Chairman Mickelson and Mr. Riding are both encouraged by the positive equity balance of the PST Fund. Brent Everett stated that the PST Fund reached a positive equity balance eleven months ago. He confirmed that predictions are fairly accurate for the near future but it is hard to predict reliably beyond a few years. Mr. Riding also asked about the 50-million-dollar cap prediction for the equity balance of the PST Fund in the next several years. Mr. Everett stated that while there is concern due to the amount that would be collected into the PST Fund, that future prediction is unknown due to a lack of information about how APSTs will affect the PST Fund balance.

VII. Administrative Rules.

A. Proposed changes to the Utah Solid and Hazardous Waste Rules R315-124, R315-301, R315-302, R315-304, R315-306, R315-309, R315-310, R315-311, R315-315 and R315-320 of the Utah Administrative Code (Information Item).

Brian Speer, Solid Waste Section Manager in the Division of Waste Management and Radiation Control (Division), reviewed proposed changes to the Utah Solid and Hazardous Waste Rules R315-124, R315-301, R315-302, R315-304, R315-306, R315-309, R315-310, R315-311, R315-315 and R315-320 of the Utah Administrative Code (UAC) as an informational item to the Board.

Mr. Speer informed the Board that at their next Board meeting, the Division seek Board action to proceed with formal rulemaking and public comment on the proposed rule changes identified above.

Mr. Speer stated the proposed changes will 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. The solid waste rules have not been updated or amended for several years, and the purpose of this rulemaking is to bring the rules up-to-date and fix errors in the rules. There are several statutory citations in the rules that are not correct because the statutes have been amended and the numbering has changed. These citations are being corrected. Also, several rule citations were found to be incorrect, and those are also being corrected. Clarifying language is being added in several places in the rules to assist the regulated community in implementing the rules. The Utah Legislature passed bills in 2011, 2013, 2014, 2017, 2019, 2020, and 2021 that made changes to the solid waste program. These changes are being codified in rule with these amendments. Utah Administrative Code 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. Following the requirements of UAC R315-124 will improve the public participation process for these types of actions. Additionally, the Division is fixing typographical and formatting errors found in the rules as requested by the Governor's Office.

The Board is authorized under Subsection 19-6-105 to make rules that establish minimum standards for protection of human health and the environment for the treatment and disposal of solid waste. The rule changes also meet existing UDEQ and state rulemaking procedures.

This is an informational item for the Board. Board action on this proposed rulemaking will be required at a future Board meeting.

Mark Franc asked when the Board will see language regarding the proposed rule changes. Mr. Speer stated that the draft rule changes will be provided to the Board in their next Board packet.

Vern Rogers asked if there were any of the rule changes made in response to changes in rules by the U.S. EPA (federal level). Mr. Speer answered no.

VIII. Low-Level Radioactive Waste.

A. **EnergySolutions' request for a site-specific treatment variance from the Utah Hazardous Waste Management Rules. EnergySolutions seeks authorization to macroencapsulate and dispose of waste containing high concentrations of arsenic in quantities greater than 1,000mg/L that cannot be treated to the specified treatment standard (Board Action Item).**

Tyler Hegburg, Environmental Scientist, Low-Level Radioactive Section, Division of Waste Management and Radiation Control, reviewed EnergySolutions' request for a site-specific treatment variance.

Mr. Hegburg stated that during the September 14, 2023 Board Meeting, EnergySolutions presented to the Board as an information item a request for a site-specific treatment variance from Utah Administrative Code (UAC) R315-268-40(a)(3) to dispose of waste containing high concentrations of arsenic in quantities greater than 1,000mg/L that cannot be treated to the specified treatment standards by macroencapsulation.

This variance request is to dispose of approximately 250 cubic feet of Natural Gas Sweetener Filter Media (clay pellets) and rinse water that will be characteristically hazardous for arsenic, cadmium, and benzene. Sample analysis of waste received in June 2023 detected arsenic at 14,400 mg/L in the aqueous liquid phase (approx. 20 cubic feet) and 4,600 mg/L in the solid phase.

Following site processes knowledge, EnergySolutions proposes to first treat the waste such that all hazardous waste contaminants, except arsenic, are at or below the respected treatment standards described in UAC R315-268 for Universal Treatment Standards and then macroencapsulate the residual waste in accordance with Part B Permit requirements for macroencapsulation to ensure protection of public health and the environment.

Mr. Hegburg explained the reason behind not treating the arsenic to its respective treatment standards of 5.0 mg/L is because this media being clay pellets is far coarser than the media used in developing the treatment standard, making it much more difficult to appropriately mix the reagent in with the waste streams media. Furthermore, the formula to treat the arsenic is a 5:1 waste ratio, meaning large amounts of absorbent material will be needed to meet the treatment standard. This would bring into question whether actual treatment was occurring or whether dilution was causing the reduction in the arsenic concentration. As an alternative, EnergySolutions proposes to first treat all waste not meeting Universal Treatment Standards to their Permit requirements other than arsenic; then EnergySolutions will macroencapsulate the waste in its final designated location within their mixed waste landfill cell.

Additionally, similar variance requests were made and approved by the Board for this waste stream in January of 2016 and December of 2019.

A notice for public comment was published in the Salt Lake Tribune, the Deseret News, and the Tooele County Transcript Bulletin on August 31, 2023. The 30-day public comment period began August 31, 2023 and ended September 29, 2023. No public comments were received.

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

Shane Whitney asked if the waste is placed in a vault or drum prior to macroencapsulation.

Mr. Hegburg stated the waste is placed in a vault prior to macroencapsulation.

It was moved by Scott Wardle and seconded by Steve McIff and UNANIMOUSLY CARRIED to approve EnergySolutions' request for a site-specific treatment variance from the Utah Hazardous Waste Management Rules to macroencapsulate and dispose of waste containing high concentrations of arsenic in quantities greater than 1,000mg/L that cannot be treated to the specified treatment standard. (Vern Rogers abstained from voting on this matter.)

B. EnergySolutions' request for a site-specific treatment variance from the Utah Hazardous Waste Management Rule UAC R315-268-40(a)(3) to receive incinerator ash containing dioxan/furan contaminants above Universal Treatment Standards (Board Action Item).

Mr. Hegburg reviewed EnergySolutions' request for a site-specific treatment variance. Mr. Hegburg stated that during the September 14, 2023 Board Meeting, EnergySolutions presented to the Board as an informational item a request for a site-specific treatment variance from the Utah Hazardous Waste Management Rule UAC R315-268-40(a)(3) to receive incinerator ash containing dioxan/furan contaminants above Universal Treatment Standards. The incinerator ash waste meets all treatment standards except those wastes containing dioxan/furan contaminants as underlying hazardous constituents (UHCs). Requiring the waste to meet the dioxin and furan treatment standards is inappropriate based on the processes that generate the waste, which is incineration. Because of the waste generation processes, all the ash waste contains dioxins and furans; however, in accordance with regulations, only a portion of the waste needs to be treated for those contaminants.

The generator has previously analyzed each container of ash for metals contamination. If metals were below the toxicity characteristic concentrations described in 40 CFR 261.24 (R315-261-24), the waste would be shipped to the Clive facility as Low-Level Radioactive Waste (LLRW) and disposed in the Class A Embankment. If metals were above the Toxicity Characteristic concentrations, then the waste would need to be treated for those metals as well as all UHCs, including dioxins and furans. It is inappropriate to require treatment of dioxin and furan contaminants in instances where characteristic metals are found in the waste when treatment is not required if metals are below characteristic concentrations in the waste.

Furthermore, the stabilized ash was re-incinerated as an attempt to reduce the concentration of dioxins and furans in the ash. However, re-incineration resulted in a very minor reduction in the concentrations of dioxan and furan contaminants. Making the re-incineration process inappropriate to require an additional step in order to attempt to meet these treatment standards prior to disposal.

EnergySolutions proposes to confirm the waste meets all required treatment standards with the exception of the dioxin and furan UHCs and then microencapsulate the residue in MACRO Vaults using requirements approved in the state-issued Part B Permit. Final disposal of the incinerator ash will occur in the Mixed Waste Disposal Cell at the EnergySolutions' Mixed Waste Facility.

EnergySolutions' request for this same variance request was approved previously in 2018, 2019, 2021, and 2022. Over the previous year while this variance was in effect, the EnergySolutions' Clive facility received approximately 30 tons (eight shipments) of this ash for treatment. EnergySolutions forecasts similar amounts of this waste over the next year.

A notice for public comment was published in the Salt Lake Tribune, the Deseret News, and the Tooele County Transcript Bulletin on August 31, 2023. The 30-day public comment period began August 31, 2023 and ended September 29, 2023. No public comments were received.

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

Nathan Rich asked a question regarding public comment and the publication of the public notice. Information presented stated the public notice was published in the Salt Lake Tribune, the Deseret News, and the Tooele County Transcript Bulletin (local newspapers) and asked if the public notice was also published on the Utah Public Notice Website (UPNW) and should it be. Mr. Hegburg stated he believes it is also published on UPNW. Mr. Rich stated that it might be interesting to add this information to the summary if it is indeed published on UPNW. Mr. Hegburg stated he will add it accordingly to the next summary.

It was moved by Dennis Riding and seconded by Jeremy Hawk and UNANIMOUSLY CARRIED to approve EnergySolutions' request for a site-specific treatment variance from the Utah Hazardous Waste Management Rule UAC R315-268-40(a)(3) to receive incinerator ash containing dioxan/furan contaminants above Universal Treatment Standards. (Vern Rogers abstained from voting on this matter.)

IX. Proposed Stipulation and Consent Order between the Director and Utah State University (Information Item).

Judy Moran, Environmental Scientist/Inspector, Hazardous Waste Section, Division of Waste Management and Radiation Control, presented proposed Stipulation and Consent Order (SCO) No. 2207086 to resolve Notice of Violation and Compliance Order (NOV/CO) No. 2108087, issued to Utah State University (USU) on April 8, 2022 to the Board as an informational item

The NOV/CO was based on information documented during an inspection at the USU campus in Logan, Utah on August 11, 2021. The thirteen violations identified in the NOV/CO have been resolved.

The SCO includes a total penalty of \$28,409.00. Utah State University will pay 10% of the total penalty as 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 is proposing to add 80 solar panels to an existing solar array on the gateway parking terraces 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 will end on November 8, 2023. The SCO will be brought back to the Board for final action after the public comment period is completed.

Mark Franc asked if the solar panels that USU has agreed to install are in addition to ones USU would have installed anyway. Specifically, was USU planning on installing solar panels anyway and was interested in what is actually being gained. Ms. Moran stated that USU was not planning on installing them had it not been for the SEP. Ben Berrett, Associate Vice President for Finance & Administrative Service and Executive Director of Facilities for USU University, clarified that when the USU project was constructed, the infrastructure was designed for more solar panels. Special funding was received from the University President for this project, but it did not make economic sense to put the additional solar panels in at that time. So, while USU has the infrastructure plan, they have no funding source identified to move forward on the project because of the economic impacts.

Mr. Franc asked for clarification as it seems with the infrastructure already in place, the plan was to eventually install the solar panels, and now USU has credit going towards this NOV/CO to reduce the penalty.

Doug Hansen, Division Director, Waste Management and Radiation Control, clarified that there may have been a timing issue as well. Just because USU has infrastructure in place that would allow for the installation of solar panels at a future time, it may have never happened as funding for projects for government entities and agencies is difficult to obtain and stated that was the impetus for it to move forward.

Vern Rogers stated that the Board has had a number of stipulated consent orders presented to them over the past five or six years and it is interesting to see the difference or the division between the cash penalty required and the SEP allowance. Mr. Rogers commented that he does not recall seeing in this type of situation where there was such a small cash amount required and asked if that is simply set by negotiation or is there a statute or requirement that governs how that is divided and is it also dependent upon whether it is a public or private entity being assessed the penalty. Ms. Moran stated that she is not aware if the Division's penalty policy addresses Mr. Rogers' concerns and stated that she believes the amounts set are through negotiations.

Director Hansen clarified that the penalty amount is part of the negotiation process, and there is not a mechanism in place for the Division not to assess a cash penalty associated with these matters. Director Hansen stated that a number of factors come into play in the process of negotiating a penalty, which include if the violations resolved quickly and amicably, what kind of a project is being proposed, does the project exceed the amount of credit allowed, etc.

X. Director's Report.

Director Hansen reported that Board members up for reappointment had the opportunity to meet with the Natural Resources, Agriculture and Environment Interim Senate Committee on October 4, 2023, to answer questions regarding their pending reappointments. Director Hansen stated that meeting went very well and congratulated Nathan Rich, Vern Rogers, Shane Whitney, Danielle Endres, Dr. Codell, and Brett Mickelson, as all nominees received full Senate confirmation for their reappointments during the Utah State Senate meeting held on October 11, 2023. Director Hansen further commented that Chairman Senator Sandall of the Natural Resources, Agriculture and Environment Interim Committee spoke very highly and was very complimentary of all of the candidates and expressed his confidence in this Board and the actions each Board member takes in their capacity to lead the work being conducted in the two Divisions the Board supports.

Director Hansen also thanked all Board members for their willingness to serve and said that in addition to all the support received from UDEQ, our elected officials are grateful and supportive as well.

Director Hansen notified the Board that one SCO was presented today, but a few more are nearing completion that will require Board action. With that in mind, the Division staff will be conscientious of when they will be brought before the Board, as with past tradition, if a light agenda is forecasted for the December Board meeting, the tradition of not requiring a December Board meeting will be observed, if possible.

Kim Shelley, Executive Director of UDEQ, informed the Board that today she had the honor of attending a luncheon at the Governor's Mansion to celebrate this year's UDEQ recipient of the 2023 Governor's Award for Excellence, Alyssa Stringham. Executive Director Shelley highlighted Ms. Stringham's outstanding public service and her excellence as the lead GRAMA Records Officer/Archivist in the Division of Waste Management and Radiation Control. Executive Director Shelley stated that she thinks all 400+ UDEQ employees are exceptional, so it was very difficult evaluating the nominees, but Ms. Stringham was the selected finalist because for her outstanding public service. Ms. Stringham and her husband also attended the luncheon to celebrate her accomplishments and accepted the award as an exceptional employee on behalf of UDEQ.

XI. Other Business.

A. Miscellaneous Information Items – None.

B. Scheduling of next Board Meeting (November 9, 2023).

The next meeting is scheduled for November 9, 2023 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#

XII. Adjourn.

The meeting adjourned at 2:10 p.m.

PST STATISTICAL SUMMARY
October 1, 2022 -- September 30, 2023

PROGRAM													
	October	November	December	January	February	March	April	May	June	July	August	September	(+/-) OR Total
Regulated Tanks	4,191	4,190	4,196	4,188	4,200	4,203	4,198	4,210	4,211	4,218	4,241	4,236	45
Tanks with Certificate of Compliance	4,073	4,085	4,083	4,089	4,088	4,093	4,103	4,105	4,110	4,122	4,117	4,111	38
Tanks without COC	118	105	113	99	112	110	95	105	101	96	124	125	7
Cumulative Facilities with Registered A Operators	1,278	1,276	1,282	1,280	1,279	1,276	1,279	1,279	1,282	1,289	1,288	1,282	97.79%
Cumulative Facilities with Registered B Operators	1,279	1,277	1,282	1,281	1,281	1,279	1,280	1,279	1,281	1,288	1,288	1,282	97.79%
New LUST Sites	10	8	9	9	9	4	2	9	6	5	5	13	89
Closed LUST Sites	3	14	3	7	8	17	6	11	4	7	8	14	102
Cumulative Closed LUST Sites	5491	5494	5501	5509	5524	5531	5539	5542	5549	5556	5571	5578	87
FINANCIAL													
	October	November	December	January	February	March	April	May	June	July	August	September	(+/-)
Tanks on PST Fund	2,636	2,635	2,628	2,623	2,621	2,617	2,619	2,617	2,618	2,621	2,617	2,611	(25)
PST Claims (Cumulative)	711	711	711	711	711	710	711	713	723	724	724	725	14
Equity Balance	-\$281,835	\$80,750	\$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	\$3,553,039
Cash Balance	\$27,889,815	\$28,252,400	\$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	\$4,601,426
Loans	0	0	0	0	0	0	0	0	0	1	0	0	0
Cumulative Loans	128	128	128	128	128	128	128	128	128	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	\$6,014,420	\$6,014,420	\$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
	October	November	December	January	February	March	April	May	June	July	August	September	TOTAL
Speed Memos	105	60	31	42	44	79	40	61	102	62	103	69	798
Compliance Letters	7	9	9	5	3	7	27	5	17	4	7	7	107
Notice of Intent to Revoke	0	0	0	0	0	0	0	0	0	0	0	0	0
Orders	0	0	3	0	0	1	1	0	0	0	0	1	6

WASTE MANAGEMENT AND RADIATION CONTROL BOARD

Executive Summary

Proposed Rule Changes

**UAC R315-124, UAC R315-301, UAC R315-302, UAC R315-304, UAC R315-306,
UAC R315-309, UAC R315-310, UAC R315-311, and UAC R315-314**

November 9, 2023

<p>What is the issue before the Board?</p>	<p>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 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.</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. The purpose of this rulemaking is to bring the rules up-to-date and fix errors in the rules.</p> <p>There are several statutory citations in the rules that are not correct because the statutes have been amended and numbering has changed. These citations are being corrected.</p> <p>Several rule citations were found to be incorrect. These are being corrected.</p> <p>Clarifying language is being added in several locations to assist the regulated community in implementing the rules.</p> <p>The Utah Legislature passed bills in 2011, 2013, 2014, 2017, 2019, 2020 and 2021 that made changes to the solid waste program. These changes are being codified in rule with these amendments.</p> <p>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. Following the requirements of UAC R315-124 will improve the public participation process for these types of actions.</p> <p>Additionally, the Division is fixing typographical and formatting errors found in the rules as requested by the Governor’s Office. For the convenience of the Board the major changes to the rules have been highlighted in yellow.</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 is necessary to begin the formal rulemaking process by filing the appropriate documents with the Office of Administrative Rules for publishing the proposed rule changes in the Utah State Bulletin and conducting a public comment period.</p>
<p>What is the Division Director's recommendation?</p>	<p>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 R315-124, UAC R315-301, UAC R315-302, UAC R315-304, UAC R315-306, UAC R315-309, UAC R315-310, UAC R315-311, and UAC R315-314 and conducting a public comment period from December 1, 2023 to January 3, 2023.</p>
<p>Where can more information be obtained?</p>	<p>Please contact Tom Ball by phone at 385-454-5574 or by email at tball@utah.gov</p>

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 Rules R315-17, R315-101, R315-102, R315-260 through R315-266, R315-268, R315-270, ~~R315-273,~~ or R315-301 through R315-320, Rule R315-124 applies to ~~all~~ any actions by the ~~D~~ director taken under the rules listed ~~above~~ in Section R315-124-1.

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 ~~See~~ 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 an application incomplete.

(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) ~~C~~ 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). ~~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~~ ~~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. ~~When~~ 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 ~~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) ~~[T] 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) ~~[T] 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 ~~[a] 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 rights to receive notice for any classes and categories of permits.
- (d) Contents.
- (1) ~~AH~~ 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), ~~at~~ 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. ~~At~~ 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 whenever the [D]director finds, on the basis of requests, a significant degree of public interest in a draft permit~~(s)~~ or permits;
- (2) The [D]director may also hold a public hearing at the [D]director's discretion, whenever, 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 whenever 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]~~Whenever 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) Whenever 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 ~~[a]~~any reasonably ascertainable issues and submit ~~[a]~~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 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 ~~[a]~~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) ~~[All]~~any comments received during the public comment period provided under Section R315-124-10;

(2) ~~[F]~~the recording or transcript of any hearing~~[(t)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 ~~[all]~~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 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) Whenever an ~~[party or]~~ interested person has the right or is required to 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 ~~[all]~~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 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 ~~[all]~~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 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, the [D]director will investigate and provide written response to [all]any citizen complaints duly submitted. In

addition, the [D]director shall 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: February 17, 2022

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

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 useable 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~~[/]~~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~~[/]~~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 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;
- (iv) rebar contained in concrete; and
- (v) untreated wood, and tree stumps.

(b) Construction[~~f~~]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 form from incineration, burning, or any other means of using the heat of combustion of solid waste that involves high temperature, [{}above 1200 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]~~ SW-846 Test Method 9095B, ~~[Paint Filter Liquids Test]~~, as provided in EPA's ~~[Report SW-846 "]~~ Test Methods for Evaluating Solid Waste~~["]~~ as revised ~~[December (1996)]~~ November 2004 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~~[s]~~, oil and gas waste~~[s]~~, 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 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 ~~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 ~~all~~ any rock, including ~~all~~ 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~~ 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 ~~the~~ 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~~ 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~~ 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~~ site" means any site which is not on ~~the~~ site.

(50) "On ~~site~~ 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~~ 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~~ 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~~ 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~~ 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 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~~ 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.

(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 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.

(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) ~~Cr~~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 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~~[-]~~:

(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;~~[-]~~

(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)(ii); or
 - (ii) cement kiln dust.

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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) ~~[F]~~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
 - (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 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 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 [~~all~~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 ~~[all]~~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) ~~[All]~~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 Rules 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 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

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~~[€]~~ 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~~[r]~~ 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 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 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: 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

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:~~
 - ~~(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 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 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 not be subject to the location standards of Subsection R315-304-4(2)(a).

KEY: solid waste management, solid waste disposal

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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.
 - (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~~ that indicate 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 ~~PCBs~~ 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 shall 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~~[s]~~ or disposal plans for ~~(a)~~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 ~~(PCBs)~~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 ~~(a)~~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 ~~(a)~~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

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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 Section 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 from 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 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 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~~shall 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~~ 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~~ D director and place copies of the documentation in the facility's operating record.

(c) The ~~D~~ 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~~ 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~~ 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~~ 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~~ D director. Cancellation may not occur until 120 days after the date the notice is received by the ~~D~~ 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~~ 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~~ D director for review and approval, and place copies of the documentation in the facility's operating record.

- (f) If a corporate guarantor no longer meets the requirements of the corporate financial test as specified in Section R315-309-9:
- (i) the owner or operator ~~must~~ shall, within 90 days, ~~obtain~~ get alternate financial assurance; and
 - (ii) submit documentation of the alternate financial assurance to the ~~D~~ Director and place copies of this documentation in the facility's operating record.
 - (iii) If the owner or operator fails to provide alternate financial assurance within the 90-day period, the guarantor ~~must~~ shall provide that alternate assurance within the next 30 days.

KEY: solid waste management, waste disposal

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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~~ 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 ~~all~~ each requirement[s] for the desired class, or subclass, to include ~~obtaining~~ getting a new permit from the ~~D~~director for the desired class, or subclass, of landfill.

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

R315-310-2. Procedures for Permits.

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

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

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

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

(a) for a corporation: by a principal executive officer of at least the level of vice-president;

(b) for a partnership or sole proprietorship: by a general partner or the proprietor;

(c) for a municipality, ~~S~~state, ~~F~~federal, or other public agency: by either a principal executive officer or ranking elected official; or

(d) by a 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 a duly authorized representative only if the authorization is made in writing, to the ~~D~~director, by a person described in Subsections R315-310-2(4)(a), R315-310-2(4)(b), or R315-310-2(4)(c), as appropriate.

(ii) The authorization may specify either a named individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of facility manager, director, superintendent, or other position of equivalent responsibility.

(iii) If an authorization is no longer accurate and needs to be changed because a different individual or position has responsibility for the overall operation of the facility, a new authorization that meets the requirements of Subsections R315-310-2(4)(d)(i) and R315-310-2(4)(d)(ii) shall be submitted to the [D]director [prior to]before or together with any report, information, or application to be signed by the authorized representative.

(5) Filing Fee and Permit Review Fee.

(a) A filing fee, as required by the Annual Appropriations Act, shall accompany the filing of an application for a permit. The review of the application will not begin until the filing fee is received.

(b) A review fee, as established by the Annual Appropriations Act, shall be charged at an hourly rate for the review of an application. The review fee shall be billed quarterly and shall be due and payable quarterly.

(6) [A]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] and facilities addressed in Subsection R315-310-1(1)(b), 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 [all]each property owner[s] identified in Subsection R315-310-3[(3)](2)(a)(i)[-]; and

(iii) [the Director with]the name of the local government with jurisdiction over the site and the mailing address of that local government office.

(b) The [D]director shall send a letter to each person identified in Subsections R315-310-3[(3)](2)(a)(i) and R315-310-3(2)(a)(iii) requesting that [they]the person reply, in writing, if [they]the person desires [their name]to be placed on an interested [party]persons list to receive further public information concerning the proposed facility.

(3) Special Requirements for a Commercial Solid Waste Disposal Facility.

(a) The permit application for a commercial nonhazardous solid waste disposal facility shall contain the information required by Subsection[s] 19-6-108[(9) and]-(10), including information to demonstrate that the requirements of Subsection 19-6-108(11) are satisfied.

(b) Subsequent to 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 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 Sections R315-310-3, R315-310-4, R315-310-5, R315-310-6, R315-310-7, or R315-310-8, as appropriate. Applicable information, that was submitted to the [D]director as part of a previous permit application, may be copied and included in the permit renewal application so that ~~all~~the required information is contained in one document. The information submitted shall reflect the current operation, monitoring, closure, post-closure, and ~~all~~any other aspects of the facility as currently established at the time of the renewal application ~~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 R315-303-3(4) have been met;~~
 - (iii) ~~for each Class III landfill, the applicable requirements of Section R315-304-5;~~
 - (iv) ~~for each Class IV or VI landfill, the applicable requirements of Section R315-305-5;~~
 - (v) ~~the applicable requirements for groundwater monitoring according to Rule R315-308; and~~
 - (vi) ~~the financial assurance update requirements of Subsection R315-311-1(5);~~
- (b) ~~for incinerator facilities the required financial assurance for incinerators according to Section R315-306-2 or R315-306-3, as applicable;~~
- (c) ~~for landtreatment disposal facilities the applicable information required in Section R315-307-4;~~
- (d) ~~for composting facilities the applicable information required in Subsection R315-312-3(5);~~
- (e) ~~for waste piles subject to Rule R315-314 that are likely to produce leachate the applicable information required in Subsection R315-314-2(2)(f); and~~
- (f) ~~for CCR facilities the applicable information required in Sections R315-319-100 through R315-319-104.~~

R315-310-11. Permit Transfer.

(1) A permit may not be transferred without approval from the ~~[D]~~director, nor shall a permit be transferred from one property to another.

(2) The new owner or operator shall submit to the ~~[D]~~director:

- (a) ~~[A]~~a revised permit application no later than 60 days ~~prior to~~before the scheduled change; and
- (b) ~~[A]~~a written agreement containing a specific date for transfer of permit responsibility between the current permittee and the new permittee[s].

(3) The new permittee shall:

- (a) assume permit requirements and ~~all~~financial responsibility;
- (b) provide adequate documentation that the permittee has or shall have ownership or control of the facility for which the transfer of permit has been requested;

(c) demonstrate adequate knowledge and ability to operate the facility in accordance with the permit conditions; and

(d) demonstrate adequate financial assurance as required in the permit and Rule R315-309 for the operation of the facility.

(4) ~~[When]~~If a transfer of ownership or operational control occurs, the old owner or operator shall comply with the requirements of Rule R315-309 until the new owner or operator has demonstrated that it is complying with the requirements of that rule.

(5) An application for permit transfer may be denied if the ~~[D]~~director finds that the applicant has:

- (a) knowingly misrepresented a material fact in the application;
- (b) refused or failed to disclose any information requested by the ~~[D]~~director;
- (c) exhibited a history of willful disregard of any state or federal environmental law; or
- (d) had any permit revoked or permanently suspended for cause under any state or federal environmental law.

KEY: solid waste management, waste disposal

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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 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-~~[4]~~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 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]~~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 the expiration date of the permit to allow an earlier permit termination~~[+].~~

(viii) ~~[e]~~Changes are made ~~[+]~~to the closure schedule for a unit, ~~[+]~~to the final closure schedule for the facility, or the closure period is extended~~[+].~~

(ix) ~~[+]~~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 monitoring quality control ~~[f]~~ quality assurance plans ~~[which]~~ that will better certify that the specifications for construction, closure, sampling, or analysis will be met~~[s]~~.
 - (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~~[s]~~.
 - (xiv) Replacement of an existing monitoring well ~~[is replaced]~~ with a new well without changing the location~~[s]~~.
 - (xv) ~~[e]~~ Changes are made in the design or depth of a monitoring well that provides more effective monitoring~~[s]~~.
 - (xvi) ~~[e]~~ Changes are made in the statistical method used to statistically analyze the ~~[ground-water]~~ groundwater quality data ~~[, 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 ~~[D]~~ 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 ~~[D]~~ 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 ~~[D]~~ 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 ~~[D]~~ 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, 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.]~~

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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 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 not exceed ~~[4]~~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]~~tires ~~[S]~~stored in a ~~[F]~~tire ~~[F]~~fence.

(a) Whole ~~[T]~~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) ~~(e)~~ 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: April 25, 2013

Notice of Continuation: November 30, 2022

Authorizing, and Implemented or Interpreted Law: 19-6-104; 19-6-105; 19-6-108

WASTE MANAGEMENT AND RADIATION CONTROL BOARD

Executive Summary

Proposed Rule Changes

UAC R313-19, UAC R313-21, and UAC R313-22

November 9, 2023

<p>What is the issue before the Board?</p>	<p>Approval from 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.</p>
<p>What is the historical background or context for this issue?</p>	<p>The Nuclear Regulatory Commission provided comments to the Division of Waste Management and Radiation Control regarding inconsistencies between Utah rules and federal regulations.</p> <p>The comments included the following:</p> <ol style="list-style-type: none">1) In R313-19-13(1)(c)(vii)(A), Utah omitted the word “mirror.” Utah needs to add the word “mirror”.2) In R313-19-13(1)(c)(vii)(B), Utah omits the word “uranium.” Utah needs to add the word “uranium”.3) In R313-19-13(1)(c)(ix)(B), Utah needs to reference NRC regulations as follows, “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 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, Subsections R313- 22-33(1)(a) and (b), and 10 CFR 40.32(b) and (c).”4) In R313-22-55(1)(c)(i), Utah omitted references to 10 CFR 40.22 and 40.51 as stated in 10 CFR 40.55(c)(1). <p>These changes need to be made to the rules for Utah to maintain compatibility with the federal regulations.</p> <p>Additionally, the Division is fixing typographical and formatting errors found in the rules as requested by the Governor’s Office. For the convenience of the Board the major changes to the rules have been highlighted in yellow.</p>

<p>What is the governing statutory or regulatory citation?</p>	<p>The Board is authorized under Subsections 19-3-103.1 and 19-3-104 to make rules to meet the requirements of federal law relating to radiation control to ensure the radiation control program is qualified to maintain primacy from the federal government and that are necessary to implement the provisions of the Radiation Control Act.</p> <p>The rule changes also meet existing DEQ and state rulemaking procedures.</p>
<p>Is Board action required?</p>	<p>Yes. Board approval is necessary to begin the formal rulemaking process by filing the appropriate documents with the Office of Administrative Rules for publishing the proposed rule changes in the Utah State Bulletin and conducting a public comment period.</p>
<p>What is the Division Director's recommendation?</p>	<p>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 and conducting a public comment period from December 1, 2023 to January 3, 2023..</p>
<p>Where can more information be obtained?</p>	<p>Please contact Tom Ball by phone at 385-454-5574 or by email at tball@utah.gov</p>

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 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, or
- (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 ~~;~~ 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 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~~ ~~;~~ ~~;~~ The exemption contained in Subsection R313-19-13(1)(c)(v) shall 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 inch, ~~;~~ ~~;~~ [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, ~~;~~ ~~;~~ [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 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 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(a)(ii)(A) and R313-19-13-2(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 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 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.

(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 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, [~~1~~925.0 MBq~~1~~], of tritium per timepiece;

(II) five millicuries, [~~1~~185.0 MBq~~1~~], of tritium per hand;

(III) 15 millicuries, [~~1~~555.0 MBq~~1~~], of tritium per dial. Bezels ~~when~~if used shall be considered as part of the dial;

(IV) 100 microcuries, [~~1~~3.7 MBq~~1~~], of promethium-147 per watch or 200 microcuries, [~~1~~7.4 MBq~~1~~], of promethium-147 per any other timepiece;

(V) 20 microcuries, [{}0.74 MBq{}], of promethium-147 per watch hand or 40 microcuries, [{}1.48 MBq{}], of promethium-147 per other timepiece hand;

(VI) 60 microcuries, [{}2.22 MBq{}], of promethium-147 per watch dial or 120 microcuries, [{}4.44 MBq{}], 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 uGy{}], 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 uGy{}], 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 uGy{}], per hour at ten centimeters from any surface; and

~~(VIII)~~ one microcurie, [{}37.0 kBq{}], 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 uCi{}], 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 uCi{}], of polonium-210 per device or of a total of not more than 1.85 GBq, [{}50 mCi{}], of hydrogen-3, [{}tritium{}], per device.

(III) ~~Such~~ 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 MBq{}], of tritium per balance or not more than 0.5 millicurie, [{}18.5 MBq{}], of tritium per balance part manufactured before June 9, 2010.

(D) Marine compasses containing not more than 750 millicuries, [{}27.8 GBq{}], of tritium gas and other marine navigational instruments containing not more than 250 millicuries, [{}9.25 GBq{}], of tritium gas manufactured before June 9, 2010.

(E) Ionization chamber smoke detectors containing not more than 1 microcurie, [{}37 kBq{}], 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 shall not exceed one millirad, 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 GBq{}], of tritium per microwave receiver protector tube or ten millicuries, [{}370.0 MBq{}], of tritium per any other electron tube;

(II) one microcurie, [{}37.0 kBq{}], of cobalt-60;

(III) five microcuries, [{}185.0 kBq{}], of nickel-63;

(IV) 30 microcuries, [{}1.11 MBq{}], of krypton-85;

(V) five microcuries, [{}185.0 kBq{}], of cesium-137;

(VI) 30 microcuries, [{}1.11 MBq{}], of promethium-147;

(VII) one microcurie, [{}37.0 kBq{}], 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 not exceed unity~~;~~.

(III) ~~For~~ 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, 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.

(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~~ 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~~ federal, and ~~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: November 14, 2022

Notice of Continuation: April 8, 2021

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

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 ~~7~~ seven kg, [~~15.4~~ lb], of uranium and thorium in any one calendar year. A person possessing source material in excess of these limits as of October 16, 2017, may continue to possess up to ~~7~~ seven kg, [~~15.4~~ lb], of uranium and thorium at any one time for one year beyond this date, or until the ~~D~~ 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 ~~D~~ 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 ~~7~~ 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 ~~7~~ 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 ~~7~~ seven kg, [~~15.4~~ lb], of uranium and thorium at laboratories to ~~determine~~ determine 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 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 40.64(a) and (b)]81, 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 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 Subsection 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 duly 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 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 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 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: October 13, 2017

Notice of Continuation: October 19, 2021

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

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 Enactment or Last Substantive Amendment: August 9, 2019

Notice of Continuation: April 8, 2021

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

WASTE MANAGEMENT AND RADIATION CONTROL BOARD

Executive Summary

Proposed Stipulation and Consent Order

Clean Harbors Environmental Services

November 9, 2023

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>No, this is an informational item only.</p> <p>A 30-day public comment period is currently underway. Following the 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?	N/A
Where can more information be obtained?	For technical information, please contact Kari Lundeen at (385) 499-0923. For legal information, please contact Hayley Sousa at (385) 977-4857.



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

March 28, 2022

Colleen Costello, Senior Manager Transportation Compliance
Clean Harbors Environmental Services, Inc.
P.O. Box 9149
Norwell, MA 02061-9149

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7003 2260 0003 2358 7837

RE: Notice of Violation No. 2201008
MAD039322250

Dear Ms. Costello:

Enclosed is a **NOTICE OF VIOLATION and ORDER TO COMPLY (NOV/OC)** Number 2201008, based on findings documented by the Division of Waste Management and Radiation Control inspectors regarding improperly manifesting hazardous waste.

You have 30 days from the date of the attached NOV to contest it in the manner and within the time period prescribed by R305-7-303 Utah Administrative Code (UAC).

If you have any questions, please call Kari Lundeen at (801) 536-0253.

Sincerely,

Douglas J. Hansen, Director
Division of Waste Management and Radiation Control

DJH/KAL/wa

(Over)

Enclosure: Notice of Violation and Order to Comply No. 2201008

c: Jeff Coombs, Health Officer, Tooele County Health Department
Bryan Slade, Environmental Health Director, Tooele County Health Department
Annette Maxwell, U.S. EPA, Region VIII (ENF-R)
William Simmons, Facility General Manager III, Clean Harbors Aragonite/Clive Incinerations (Email)
Shane Whitney, General Manager, Clean Harbors Grassy Mountain (Email)
Tyson Hone, Senior Environmental Compliance Manager, Clean Harbors Aragonite (Email)
Kim Shelley, Executive Director, Utah Department of Environmental Quality
Stevie Norcross, Asst. Director, Division of Waste Management and Radiation Control, UDEQ
Adam Wingate, Division of Waste Management and Radiation Control, UDEQ

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In the Matter of:	:	NOTICE OF VIOLATION and
	:	ORDER TO COMPLY
 CLEAN HARBORS ENVIRONMENTAL	:	No. 2201008
SERVICES, INC.	:	
MAD039322250		

---oo0oo---

This **NOTICE OF VIOLATION and ORDER TO COMPLY (NOV/OC)** is issued by the Director of the Division of Waste Management and Radiation Control (Director) pursuant to the Utah Solid and Hazardous Waste Act (the Act), Utah Code § 19-6-101, *et seq.* The Director has authority to issue such NOTICES and ORDERS in accordance with Utah Code § 19-6-112.

FINDINGS

1. Clean Harbors Environmental Services, Inc. (CHES) is incorporated in the state of Massachusetts and registered to conduct business in the State of Utah. CHES is the owner and operator of the Clean Harbors Environmental Services facility.
2. CT Corporation System, 1108 East South Union Avenue, Midvale, Utah, 84047 is the Registered Agent for CHES.
3. CHES is a "person" as defined in Utah Code § 19-1-103(4) and is subject to all applicable provisions of the Act and the Utah Administrative Code (UAC) (the Rules).
4. CHES notified as a transporter of Hazardous Waste on November 5, 2019.
5. CHES transports listed and characteristic hazardous waste as defined by R315-261 UAC.
6. Pursuant to Utah Code § 19-6-109, on June 2, June 29, and December 1, 2021, authorized representatives of the Director conducted Hazardous Waste inspections at Clean Harbors Aragonite, LLC (CHA) and identified manifesting discrepancies between CHA, Clean Harbors Clive (CHC), CHES, and Clean Harbors Grassy Mountain (CHGM).
7. CHGM also submitted an unmanifested waste report to the Division on August 11, 2021, and a self-report of non-compliance on October 27, 2021.
8. Pursuant to Utah Code § 19-6-109, authorized representatives of the Director conducted a review of documents related to transportation of certain hazardous waste, including the August 11, 2021, unmanifested waste report, the October 27, 2021 self-report of non-compliance, and manifests and waste profiles between October 27, 2021, and December 30, 2021.
9. R315-263-10(c)(2) UAC requires a transporter to comply with R315-262 UAC (Hazardous Waste Generator Requirements) if they mix hazardous wastes of different DOT shipping descriptions by placing them into a single container.

- a. On May 11, 2021, CHES mixed wastes of different DOT shipping descriptions when they collected hazardous waste from Martinez Refining Company LLC (MRC) in a tanker truck that contained waste residue from another facility.
 - 1) On May 11, 2021, CHES collected a load of hazardous waste in a tanker truck from Martinez Refinery in Martinez, California. Martinez Refining Company LLC (MRC) signed manifest 021822860JJK as the generator and identified CHA as the designated facility in Box 8.
 - (a) In Box 9a of Uniform Hazardous Waste Manifest Number 021822860JJK, the DOT description states: NA3082, HAZARDOUS WASTE, LIQUID, N.O.S. (CHROMIUM, SELENIUM), 9, PG III. Waste Codes D007, D010, and 727 (California Waste Code).
 - (b) The Clean Harbors Profile number was CH1003425. The waste is described on the Waste Material Profile Sheet (WMPS):
 1. WMPS Section B. Waste Description: “Diethanolamine (DEA) Reclaim Waste, Process Generating Waste: Residuals from DEA Reclamation.”
 2. WMPS Section D. Composition: “Chromium 0 - 5 PPM, Diethanolamine 35 - 45%, Heat Stable Salts 0 - 10%, Selenium 0 - 300 ppm, Water 55 - 65%.”
 3. WMPS Section E. Constituents: “13 mg/L TCLP Chromium, 180 mg/L TCLP Selenium.”
 4. WMPS Section F. Regulatory Status: The regulatory status includes a statement that the material is a USEPA hazardous waste (D007, D010) and that the waste is subject to land disposal restrictions.
 - 2) CHES transported the waste to CHA. CHA signed manifest 021822860JJK on May 12, 2021. CHA assigned the waste “drum” number 94834220 in WinWeb.
 - 3) On June 1, 2021, CHA attempted to reject the waste back to MRC, the generator on manifest number 015190984FLE, because the material was too viscous to remove from the tanker.
 - 4) CHA determined that the CHES tanker contained material that had not been cleaned out before CHES picked up the waste from MRC. The mixed hazardous waste in the CHES tanker is hereinafter referenced as “CHES-MRC waste.” MRC refused to accept the rejected CHES-MRC waste because they did not believe they were at fault. MRC, Clean Harbors Customer Services, the original transportation company, and CHA agreed to reject the tanker to CHC where the CHES-MRC waste would then be removed and the tanker cleaned.
 - 5) On June 1, 2021, CHES transported the CHES-MRC waste to CHC on a newly created manifest number 015190984FLE, that identified CHA as the generator and MRC as the designated facility. Line 14 of manifest number 015190984FLE shows profile number CH1003425, with notes “RTG from 021822860JJK.” It also references CHA drum number 94834220.
10. R315-262-11 UAC requires that a person who generates a solid waste, as defined in Section R315-261-2 UAC, shall make an accurate determination as to whether that waste is a hazardous waste in order to ensure wastes are properly managed according to applicable regulations.
- a. CHES failed to properly characterize the CHES-MRC waste.

- b. CHES created profile number CH2185608 on May 24, 2021, for the CHES-MRC waste. Profile CH2185608 did not include any information from Martinez profile number CH1003425 encompassing the mixture of hazardous waste. On the WMPS, CHES described the waste as:
 - 1) WMPS Section B. Waste Description: “Waste Description: Emulsion Liquid, ” “Process Generating Waste: Cleaning of emulsion tanks.”
 - 2) WMPS Section D. Composition: “Chemical - emulsified asphalt liquids 100 [*sic*] - 100%, Rinse Water - 1 - 25%.”
 - 3) WMPS Section E. Constituents: In answer to the question “Are these values based on testing or knowledge?” CHES checked the knowledge box. In the RCRA Regulated Metals section, CHES checked Waste Codes D004 through D011 as “not applicable.”
 - 4) WMPS Section F: Regulatory Status: CHES checked “No” in answer to whether the material was a USEPA Hazardous Waste and indicated that it was not subject to LDR.
 - 5) WMPS Section G: DOT/TDG Information/Proper Shipping Name: CHES listed “Non-RCRA Hazardous Waste, Liquids, (emulsion liquid) as the shipping name.
11. R315-263-20(c)-(d) UAC requires the transporter to ensure that the manifest accompanies the hazardous waste, and that the transporter provide a copy of the manifest to the designated facility.
- a. On June 1, 2021, CHES signed hazardous waste manifest 015190984FLE and transported it to CHC. Angela Krish, a receiving coordinator at CHC, signed manifest number 015190984FLE also on June 1, 2021. LaDell Bishop from CHES crossed out Ms. Krish’s name and signed the document on June 1, 2021. CHGM, the actual disposal facility, never received a copy of the original manifest.
12. Utah Code §19-6-113 (3) (c) states that 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 or any rules or regulations made under this part or RCRA.
- a. CHES knowingly manifested the 90 drums of waste as non-hazardous when in fact the drums were hazardous waste.
 - 1) On June 1, 2021, CHES signed hazardous waste manifest 015190984FLE and transported the tanker truck to CHC. CHES cleaned out the tanker, placed the CHES-MRC waste in 90 drums, and shipped the waste to CHGM on two separate non-hazardous waste manifests.
 - 2) CHES used profile number CH2185608 for the CHES-MRC waste cleaned out of the tanker. CHES failed to include on profile CH2185608 any information from profile number CH1003425.
 - (a) CHES signed as the generator on the first shipment of 80 drums to CHGM on June 14, 2021, using Non-Hazardous Waste Manifest number NH6628648-02.
 - (b) The waste is described as “non-RCRA Hazardous Waste, Liquids, Emulsion Liquid,” profile CH2185608 is listed.
 - (c) No reference was made to profile CH1003425.

- (d) Uniform Hazardous Waste Manifest number 015190984FLE was not included with the waste shipment, nor was the manifest referenced.
- 3) CHES signed as the generator on the second shipment of 10 drums to CHGM on June 22, 2021, using Non-Hazardous Waste Manifest number NH6628648-03.
- (a) The waste is described as “non-RCRA Hazardous Waste, Liquids, Emulsion Liquid,” profile CH2185608 is listed.
- (b) No reference to profile CH1003425 was made.
- (c) Manifest number 015190984FLE was not included with the waste shipment, nor was the manifest referenced.
13. Utah Code §19-6-113 (3) (d) states that no person shall knowingly transport or cause to be transported without a manifest any hazardous waste identified or listed under this part and required by rules or regulations made under this part or RCRA to be accompanied by a manifest.
- a. On June 14, 2021, CHES transported hazardous waste from CHC to CHGM on non-hazardous manifest number NH6628648-02.
- b. On June 22, 2021, CHES transported hazardous waste from CHC to CHGM on non-hazardous manifest number NH6628648-03.
14. CHGM disposed of the hazardous waste without treating it to meet LDR requirements.
15. Utah Code §19-6-113 (4) (b) (i) states that any person who knowingly violates any of the provisions of Subsection (3)(c) or (d) is guilty of a felony.

DETERMINATION OF VIOLATIONS

In accordance with Utah Code § 19-6-101, *et seq.*, and based on the foregoing FINDINGS, CHES has violated provisions of the Rules, and the Act applicable to its facility. Specifically, CHES has violated the following:

1. R315-263-10(c)(2) and R315-262-11 UAC for failing to make an accurate waste determination after mixing wastes in the same container. (*See findings 9 and 10*)
2. R315-263-20(c) - (d) UAC for failing to ensure that the manifest accompanied the hazardous waste and failing to provide a copy of the manifest to the designated facility. (*See finding 11*)
3. Utah Code §19-6-113 (3) (c) for omitting material information when developing a new waste profile. (*See finding 12*)
4. Utah Code §19-6-113 (3) (c) for omitting material information when preparing a manifest. (*See finding 12*)
5. Utah Code: §19-6-113 (3) (d) for transporting hazardous waste on non-hazardous waste manifests. (*See finding 13*)

ORDER TO COMPLY

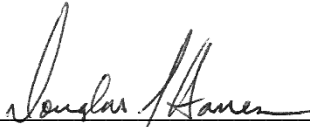
1. Within 30 days of the effective date of this NOV/OC, CHES shall submit a description of corrective actions that have been performed to prevent reoccurrence of the violations listed above.

OPPORTUNITY FOR HEARING

This NOTICE OF VIOLATION is effective immediately and shall become final unless CHES administratively contests it. Failure to contest this NOTICE OF VIOLATION 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 19-6-113(2) provides that violation of any order, plan, rule, or other requirement issued or adopted under Title 19, Ch. 6, Pt. 1 may be subject to a civil penalty of up to \$13,000 per day for each day of violation.

Dated this 28th day of March, 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 ORDER TO COMPLY (NOV/OC)** on the 28th day of March, 2022 by US Certified Mail, Return Receipt Requested, to:

Colleen Costello, Senior Manager Transportation Compliance
Clean Harbors Environmental Services, Inc.
P.O. Box 9149
Norwell, MA 02061-9149

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7003 2260 0003 2358 7837


Wendy Askee

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- 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:

Colleen Costello
 Senior Manager Transportation Compliance
 Clean Harbors Environmental Services, Inc.
 P.O. Box 9149
 Norwell, MA 02061-9149



9590 9402 6090 0125 6270 55

2. Article Number (Transfer from service label)

7003 2260 0003 2358 7837

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X AWS USPS
 for J. Mayer

Agent
 Addressee

B. Received by (Printed Name)

J. Mayer

C. Date of Delivery

070422

D. Is delivery address different from item 1? Yes

ES, enter delivery address below: No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

WA

USPS TRACKING #



023

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Division of Waste Management and Radiati
on Control
PO Box 144880
Salt Lake City, UT 84114-4880



4-488080

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In the Matter of:	:	
	:	
Clean Harbors Environmental Services, Inc.	:	STIPULATION AND CONSENT ORDER
Notice of Violation and Order to Comply	:	No. 2212143
No. 2201008	:	
MAD039322250	:	

---oo0oo---

This **STIPULATION AND CONSENT ORDER** (CONSENT ORDER) is issued by the Director of the Utah Division of Waste Management and Radiation Control (Director) pursuant to the Utah Solid and Hazardous Waste Act (the Act), Utah Administrative Code R315 (the Rules), and 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 §§ 19-6-107 and 19-6-112 and jurisdiction over Clean Harbors Environmental Services, Inc. (CHES) owned and operated by Clean Harbors Environmental Services, Inc. CHES consents to and will not challenge issuance of this CONSENT ORDER or the Director’s jurisdiction to enter and enforce this ORDER. CHES and the Director are the parties to this agreement. The Waste Management and Radiation Control Board (Board) has authority to review and approve or disapprove this CONSENT ORDER pursuant to Utah Code § 19-6-104(1)(e).

FINDINGS

2. CHES is incorporated in the State of Massachusetts and registered to conduct business in the State of Utah. CHES is the “owner and operator” of Clean Harbors Environmental Services, Inc.
3. CHES submitted EPA Form 8700-12 to notify as a transporter of hazardous waste on November 5, 2019. CHES transports listed and characteristic hazardous waste as defined by R315-261 of the Utah Administrative Code (UAC).
4. CHES is a “person” as defined in Utah Code § 19-1-103(4) and is subject to all applicable provisions of the UAC (the Rules), and the Act.
5. During Division of Waste Management and Radiation Control (Division) inspections at Clean Harbors Aragonite on June 2, June 29, and December 1, 2021; the inspectors identified discrepancies and mismanagement of waste by CHES. CHES manifested and transported hazardous waste as non-hazardous.

6. On March 28, 2022, the Director issued a Notice of Violation and Order to Comply (NOV/OC) No. 2201008 to CHES.
7. On April 20, 2022, CHES and the Division entered into a Tolling Agreement to extend the response deadline to June 26, 2022.
8. On May 25, 2022, CHES filed a written response to the NOV/OC stating, in part, it has modified its procedures to “prevent similar mistakes in the future and ensure that qualified personnel are making all waste determinations and preparing appropriate manifests.”
9. In accordance with the Civil Penalty Policy, Utah Admin. Code R315-102 of the Rules, which considers such factors as the gravity of the violations, 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/OC No. 2201008.

STIPULATION AND CONSENT ORDER

10. This CONSENT ORDER has been negotiated in good faith and the parties now wish to fully resolve NOV/OC No. 2201008 without further administrative or judicial proceedings.
11. The Division calculated a total penalty of \$40,080.00 (forty thousand eighty dollars).
 - (a) In full settlement of the violations alleged in NOV/OC No. 2201008, CHES shall pay a penalty of \$20,040.00 (twenty thousand forty dollars). Payment shall be made within thirty days of the effective date of this CONSENT ORDER. Payment shall be made to the State of 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.
 - (b) The Director agrees to hold in abeyance \$20,040.00 (twenty thousand forty dollars) of the total penalty so long as CHES complies with the terms set forth below in ¶ 12.
12. The Director hereby Orders CHES to provide:
 - (a) To the Director for approval, its standard operating procedures for tanker cleanouts that include steps to verify proper documentation and management of waste disposal.

- (b) Within 30 days of the effective date of this CONSENT ORDER, amendments to Clean Harbors standard operating procedures, including:
- i. Amendments to the Clean Harbors Aragonite “OFFC and Reject Resolution Program” provisions concerning rejected waste and repacking of waste to ensure that only trained employees who directly manage waste at the Clean Harbors Aragonite and Clean Harbors Clive facilities will be responsible for creating waste profiles and manifests for rejected waste; and
 - ii. Incorporation of similar amendments into the company-wide standard operating procedures provided in “BMP 20.0 US Waste Rejection Procedure.”
- (c) Within 90 days of the effective date of this CONSENT ORDER, documentation to demonstrate that Clean Harbors has trained all relevant employees at Clean Harbors Aragonite and Clean Harbors Clive on the amendments provided in (b);
- (d) Within 30 days of the effective date of this CONSENT ORDER, a list of Clean Harbors subsidiaries or other business entities under the umbrella of Clean Harbors, including, but not limited to, those listed as subsidiaries in the Form 10-K that Clean Harbors, Inc. files with the Securities and Exchange Commission, doing business in Utah, their registered business names, and their addresses.
- (e) To the Director each month for the next 12 months, beginning the month of the effective date of this signed CONSENT ORDER, electronic records of all hazardous waste and non-hazardous waste tanker cleanouts to demonstrate that wastes have been properly removed, documented, and disposed of from each tanker prior to it being sent to collect additional waste. These records are due on the 15th of the month following the tanker cleanout and shall include a RCRA signature certification:

“I certify under penalty of law that this collection of these records was 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

13. 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 and upon CHES and any of CHES's successors, assigns, or other entities or persons otherwise bound by law.
14. 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 CHES in the event of future non-compliance with this CONSENT ORDER, with the Act, and with the Rules; nor shall the State of Utah be precluded in any way from taking appropriate action should such a situation arise again at the CHES facility. However, entry into this CONSENT ORDER shall relieve CHES of all liability for violations which did arise or could have arisen with respect to the allegations contained in NOV/OC No. 2201008.

PUBLIC PARTICIPATION

15. 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 its consent if any comment received during the Comment Period disclose facts or consideration indicating the CONSENT ORDER is inappropriate, improper, or inadequate.

EFFECTIVE DATE

16. This CONSENT ORDER shall become effective upon the date of execution by the Director.
17. This CONSENT ORDER includes a civil penalty in excess of \$25,000 and therefore must be presented to, reviewed by, and approved or disapproved by the Board pursuant to Utah Code § 19-6-104(1)(e). Final execution by the Director shall not occur until it is approved by the Board. This CONSENT ORDER will be presented to the Board following the Comment Period. All public comments, and the Director's responses, shall be provided to the Board.

SIGNATORY

18. The undersigned representative of CHES certifies he is authorized to enter into this CONSENT ORDER and to execute and legally bind CHES.

Pursuant to the Utah Solid and Hazardous Waste Act (the Act), Utah Code § 19-6-101, *et seq.*, in the Matter of CHES Notice of Violation and Order to Comply No. 2201008, the parties hereto mutually agree and consent to STIPULATION AND CONSENT ORDER 2212143 as evidenced below:

CLEAN HARBORS ENVIRONMENTAL SERVICES, INC.

THE STATE OF UTAH
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WASTE MANAGEMENT
AND RADIATION CONTROL

Rebecca Underwood, President & EVP

Douglas J. Hansen, Director

Date: _____

Date: _____

PROPOSED

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV #2201008

Violation Number 1

Violation Description: **Failing to make an accurate waste determination after mixing non-hazardous and hazardous wastes in the same container.**

1. Gravity Based Penalty – \$ 13,000.00

(a) Potential for Harm – **MAJOR**

Clean Harbors Environmental Services’(CHES) failure to accurately characterize and document hazardous waste led to the mismanagement and subsequent disposal of untreated hazardous waste at Clean Harbors Grassy Mountain (CHGM). Mismanagement of hazardous waste risks exposure to workers at CHGM and poses a risk to the environment due to the disposal of untreated waste. CHES’ non-compliance with this regulation has a MAJOR impact on the foundational regulatory purpose of the hazardous waste program, which includes proper characterization and treatment of hazardous waste.

(b) Extent of Deviation – **MAJOR**

CHES did not follow procedures for characterizing and documenting hazardous waste, which is substantial non-compliance with the rules (R315-263-10(c)(2) and R315-262-11 UAC).

(c) Multiple/Multi-day – N/A

2. Adjustment Factors (if applicable): N/A

(a) Good faith – N/A

(b) Willfulness/Negligence – An increase of 15% is appropriate but was not applied because the gravity-based penalty meets the statutory maximum.

(c) History of Compliance or Noncompliance – N/A

(d) Ability to pay – N/A

(e) Other Unique Factors – N/A

3. Economic Benefit – N/A

Economic benefit was calculated at \$1,800.00 but not applied because the gravity-based penalty meets the statutory maximum.

4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$ 13,000.00

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2201008

Violation Number 2

Violation Description: **Failing to ensure that the manifest accompanied the hazardous waste and failing to provide a copy of the manifest to the designated facility.**

1. Gravity Based Penalty – \$ 12,000.00

(a) Potential for Harm – **MAJOR**

CHES' failure to include the appropriate manifest and deliver it to the designated facility led to the mismanagement and subsequent disposal of untreated hazardous waste at CHGM. CHES' non-compliance with this regulation has a MAJOR impact on the foundational regulatory purpose of the hazardous waste program, which includes proper transportation, treatment, and disposal of hazardous waste.

(b) Extent of Deviation – **MAJOR**

CHES did not include the original manifest with the waste shipment and did not provide it to CHGM, which is substantial non-compliance with the rules (R315-263-20(c) – (d) UAC).

(c) Multiple/Multi-day (2 days) – \$ 1,500.00

CHES shipped hazardous waste to CHGM on non-hazardous waste manifests in two separate shipments (6/14/2021 & 6/22/2021). Because CHES did not include the correct hazardous waste manifest, the waste was disposed of without treatment on both days.

2. Adjustment Factors (if applicable): N/A

(a) Good faith – N/A

(b) Willfulness/Negligence – N/A

(c) History of Compliance or Noncompliance – N/A

(d) Ability to pay – N/A

(e) Other Unique Factors – N/A

3. Economic Benefit – \$40.00

Economic benefit was calculated – \$40.00 filing fee for e-manifest.

4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$ 13,540.00

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV #2201008

Violation Number 3

Violation Description: **Transporting hazardous waste on non-hazardous waste manifests.**

1. Gravity Based Penalty – \$12,000.00

(a) Potential for Harm – **MAJOR**

CHES' failure to accurately characterize and document hazardous waste led to the mismanagement and subsequent disposal of untreated hazardous waste at Clean Harbors Grassy Mountain (CHGM). Mismanagement of hazardous waste risks exposure to workers at CHGM and poses a risk to the environment due to the disposal of untreated waste. CHES' non-compliance with this regulation has a MAJOR impact on the foundational regulatory purpose of the hazardous waste program, which includes proper characterization and treatment of hazardous waste.

(b) Extent of Deviation – **MAJOR**

The improperly manifested waste caused CHES to transport hazardous waste without a hazardous waste manifest. This was substantial non-compliance with Utah Code (§19-6-113(d)).

(c) Multiple/Multi-day (2 days) – \$ 1,500.00

CHES shipped hazardous waste to CHGM on non-hazardous waste profiles in two separate shipments (6/14/2021 & 6/22/2021). Because of the inaccurate documentation (profile and manifest), the waste was disposed of without treatment on both days.

2. Adjustment Factors (if applicable)

(a) Good faith – N/A

(b) Willfulness/Negligence – N/A

(c) History of Compliance or Noncompliance – N/A

(d) Ability to pay – N/A

(e) Other Unique Factors – N/A

3. Economic Benefit – \$40.00

The economic benefit of inappropriate manifesting was evaluated. CHES did not include the original hazardous waste manifests and instead provided non-hazardous manifests. The cost to complete the E-Manifest information pertains to hazardous waste manifests but not to non-hazardous manifests/bills of lading. CHES would have saved \$20/manifest in documentation costs for each manifest for a total of \$40.00.

4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$ 13,540.00

WASTE MANAGEMENT AND RADIATION CONTROL BOARD
Executive Summary
Proposed Stipulation and Consent Order for Clean Harbors Aragonite, LLC
November 9, 2023

<p>What is the issue before the Board?</p>	<p>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.</p>
<p>What is the historical background or context for this issue?</p>	<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>
<p>What is the governing statutory or regulatory citation?</p>	<p>§19-6-104 of the Utah Solid and Hazardous Waste Act authorizes the Board to issue orders and approve or disapprove settlements negotiated by the Director with a civil penalty over \$25,000.</p>
<p>Is Board action required?</p>	<p>No. A 30-day public comment period is currently underway. Following the comment period, this matter will be brought before the Board for action in a future meeting.</p>
<p>What is the Division Director's recommendation?</p>	<p>N/A</p>
<p>Where can more information be obtained?</p>	<p>Please contact Adam Wingate by phone at (385) 499-0293 or by email at awingate@utah.gov</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

June 24, 2022

William Simmons, Facility GM III
Clean Harbors Aragonite, LLC
11600 North Aptus Road
Grantsville, UT 84029-1339

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7003 2260 0003 2359 0189

RE: Notice of Violation and Consent Order No. 2205051
UTD 981 552 177

Dear Mr. Simmons:

On April 26, 2022, the Division of Waste Management and Radiation Control (Division) sent Clean Harbors Aragonite, LLC (Aragonite) Intent to Cite Minor Violations (ICMV) No. 2203023 (DSHW-2022-004962). Pursuant to Stipulation and Consent Order No. 2106050, the ICMV found seven minor violations that were potentially subject to resolution without additional enforcement action, pending Aragonite's submittal of the ICMV certification, prevention, and commitment specified therein.

On May 10, 2022, Aragonite submitted a response to ICMV No. 2203023 certifying that actions were immediately taken to correct the seven minor violations and that corrective actions had been implemented to prevent future recurrences of the violations. The Division has reviewed this response and agrees that the requirements listed in the ICMV have been met. The Division therefore agrees to resolve the seven minor violations without further enforcement proceedings.

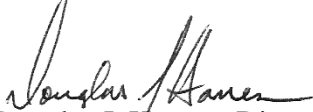
Enclosed is **NOTICE OF VIOLATION AND CONSENT ORDER (NOV/CO)** Number 2205051, based on findings documented by Division of Waste Management and Radiation Control inspectors during a compliance inspection from August 30 to September 16, 2021.

You have 30 days from the date of the attached NOV/CO to contest it in the manner and within the time period prescribed by R305-7-303, Utah Administrative Code.

(Over)

If you have any questions, please call Adam Wingate at (801) 536-0212.

Sincerely,



Douglas J. Hansen, Director
Division of Waste Management and Radiation Control

DJH/AJW/wa

Enclosure: Notice of Violation and Consent Order Number 2205051 (DSHW-2022-012842)

c: Jeff Coombs, EHS, Health Officer, Tooele County Health Department
Bryan Slade, Environmental Health Director, Tooele County Health Department
Annette Maxwell, U.S. EPA, Region VIII (ENF-R)
Connie Nakahara, Assistant Attorney General, Office of Utah Attorney General (Email)
Kimberly D. Shelley, Executive Director, UDEQ
Gabrielle Marinick, Division of Waste Management and Radiation Control, UDEQ
Boyd Swenson, Division of Waste Management and Radiation Control, UDEQ

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In the Matter of:	:	NOTICE OF VIOLATION /
	:	COMPLIANCE ORDER
Clean Harbors Aragonite, LLC	:	No. 2205051
UTD981552177	:	

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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 Solid and Hazardous Waste Act (the Act), Utah Code § 19-6-101, *et seq.* The Director has authority to issue such NOTICES and ORDERS in accordance with Utah Code § 19-6-112.

FINDINGS

1. Clean Harbors Aragonite, LLC (CHA) is a Limited Liability Company incorporated in the state of Delaware and registered to conduct business in the State of Utah, and is a subsidiary of Clean Harbors Environmental Services, Inc., a corporation incorporated in the state of Massachusetts and registered to conduct business in the State of Utah.
2. The Aragonite facility is a commercial hazardous waste incinerator, transfer station, and storage facility located in Tooele County, Utah. CHA operates the Aragonite facility under the provisions of a State-issued Hazardous Waste Part B Permit (the Permit).
3. CHA is a "person" as defined in Utah Code §19-1-103(4) and is subject to all applicable provisions of the Act, the Utah Administrative Code (UAC) (the Rules) and the Permit issued to CHA as owner and operator of the Aragonite facility.
4. On March 30, 1990, the Director issued the Permit to CHA to operate a hazardous waste treatment and storage facility. The Director renewed and reissued the Permit, effective September 28, 2012.
5. CHA generates, treats, and stores listed and characteristic hazardous waste as defined by R315-261 UAC at the Aragonite facility.
6. Pursuant to Utah Code § 19-6-109, authorized representatives of the Director conducted a hazardous waste inspection at the Aragonite facility from August 30 through September 16, 2021 (the FY2021 inspection). In addition, CHA self-reported several noncompliance issues during the 2021 fiscal year (October 1, 2020, through September 30, 2021) (FY2021). The inspectors documented the following findings:
7. Condition 1.Q.11. of the Permit requires CHA to notify the Director in writing within seven days of the baghouse being bypassed. On August 20, 2021, CHA notified the Director (DSHW-2021-012661) that CHA had failed to report a baghouse bypass that occurred on October 09, 2020, within seven days of the bypass occurrence.

8. Condition 2.B. of the Permit requires CHA to inform a generator in writing that Clean Harbors Aragonite has the appropriate permits for, and will accept, the waste the generator is planning on shipping prior to the waste being shipped by the generator. During the FY2021 inspection, the inspectors documented the following:
 - 8.1. Drum 96965610 was shipped to CHA under profile LRCTD on line 5 of manifest 015752279FLE. The container was labelled as DOT Hazard Class 4.2 PGI. Condition 2.C.2.b. of the Permit prohibits CHA from accepting DOT Hazard Class 4.2 PGI wastes. Both the manifest and profile identify the waste as DOT Hazard Class 4.2 PGI. Manifest 015752279FLE, signed by CHA, states “Clean Harbors has the appropriate permits for and will accept the waste the generator is shipping.” Clean Harbors also stated on the bottom of profile LRCTD “notice is hereby provided that all Clean Harbors facilities that may be used to treat, store, and/or dispose of the hazardous waste described on this waste profile have the appropriate permits and the capacity to manage these wastes.” CHA ultimately rejected the container to an alternate facility (Clean Harbors El Dorado) on September 13, 2021.
 - 8.2. Drum 94865900 was shipped to CHA under profile LA99H on line 2 of manifest 014768314FLE. It was a pyrophoric material. Condition 2.C.2.b. of the Permit prohibits CHA from accepting pyrophoric waste (defined as DOT Hazard Class 4.2 PGI). Manifest 014768314FLE, signed by CHA, states “Clean Harbors has the appropriate permits for and will accept the waste the generator is shipping.” Clean Harbors also stated on the bottom of profile LA99H that “notice is hereby provided that all Clean Harbors facilities that may be used to treat, store, and/or dispose of the hazardous waste described on this waste profile have the appropriate permits and the capacity to manage these wastes.” CHA did not have the appropriate permits to accept this waste. It was rejected to another facility.
 - 8.3. Drum 95770558 was shipped to CHA under profile LRCTD on line 12 of manifest 014275623FLE. It was a self-heating material. Condition 2.C.2.c. of the Permit prohibits CHA from accepting self-reactive materials. There was no statement on the manifest indicating that Clean Harbors had the appropriate permits for and would accept the waste the generator was shipping. Clean Harbors stated on the bottom of profile LRCTD that “notice is hereby provided that all Clean Harbors facilities that may be used to treat, store, and/or dispose of the hazardous waste described on this waste profile have the appropriate permits and the capacity to manage these wastes.” CHA did not have the appropriate permits to accept this waste. CHA accepted and incinerated the self-heating waste in violation of its permit.
 - 8.4. Drum 96120393 was shipped to CHA under profile LRCTD on line 6 of manifest 015737146FLE. It was a pyrophoric material. Condition 2.C.2.b. of the Permit prohibits CHA from accepting pyrophoric waste (defined as DOT Hazard Class 4.2 PGI). Manifest 015737146FLE states “Clean Harbors has the appropriate permits for and will accept the waste the generator is shipping.” Clean Harbors also stated on the bottom of profile LRCTD that “notice is hereby provided that all Clean Harbors facilities that may be used to treat, store, and/or dispose of the hazardous waste described on this waste profile have the appropriate permits and the capacity to manage these wastes.” CHA did not have the appropriate permits to accept this waste. CHA accepted and incinerated the pyrophoric waste in violation of its permit.
9. Condition 2.C.2.b. of the Permit prohibits CHA from accepting pyrophoric materials at any time. On July 27, 2021, CHA notified the Director (DSHW-2021-010706) that CHA improperly handled and incinerated two containers of pyrophoric materials.

10. Condition 3.C.3. of the Permit requires CHA to store flammable liquids (liquids with a flash point less than 140°F) in Buildings E6 and E7. CHA may also store flammable liquids in other locations (including buildings E1, E5, E4, and the breezeway) for up to ten days as part of the process for staging feed to the incinerator or other processing operations. During the FY2021 inspection, the inspectors documented the following:
 - 10.1. Drums 94482201-4 arrived at CHA on May 21, 2021. CHA did not accept drums 94482201-4 until July 28, 2021. The CHA lab results document that the waste in drums 94482201-4 tested positive for ambient ignitability on August 16, 2021. CHA stored drums 94482201-4 in the refrigerated van from July 12, 2021 until September 7, 2021 (57 days).
 - 10.2. Drum 91212757 arrived at CHA on July 26, 2021. CHA off-loaded the drum to Building E5 on August 3, 2021, and then moved it to a refrigerated van on August 4, 2021. CHA stored drum 91212757 in the refrigerated van until August 15, 2021 (11 days), when CHA moved the drum to Building E4. CHA stored drum 91212757 in Building E4 until September 4, 2021 (20 days), until CHA processed the waste through the shred tower. CHA accepted drum 91212757 on August 14, 2021. The CHA lab results document drum 91212757 contained a lab pack. The manifest, manifest 012239038FLE, identifies the waste in drum 91212757 as a flammable liquid.
 - 10.3. Drum 93657226 arrived at CHA on March 29, 2021. CHA off-loaded drum 93657226 to Building E5 on June 26, 2021, and CHA then moved the drum to Building E4 later that day. CHA stored drum 93657226 in Building E4 until September 4, 2021 (70 days), when CHA moved it to Building E6. The CHA lab results document drum 93657226 tested positive for ambient ignitability on November 18, 2021.
 - 10.4. Drum 96420329 arrived at CHA on August 3, 2021. CHA off-loaded drum 96420329 to Building E1 on August 22, 2021 and CHA accepted the drum that same day. CHA stored drum 96420329 in Building E1 until September 4, 2021 (13 days), when CHA moved the drum to Building E2. CHA stored drum 96420329 in Building E2 until September 6, 2021, when CHA processed it through the shred tower. The CHA lab results document drum 96420329 was a lab pack. The manifest, manifest 015856903FLE identifies the waste in drum 96420329 as a flammable liquid.
11. Condition 3.C.5. of the Permit requires CHA to store oxidizer waste in Building 68. CHA may also store oxidizer waste in other locations (including buildings E1, E5, E4, and the breezeway) for up to ten days as part of the process for staging feed to the incinerator or other processing operations. While in these other areas, CHA may not store potentially incompatible materials in the same area as these materials. During the FY2021 inspection, the inspectors documented a drum of flammable liquid (96498100) on the same pallet as an incompatible drum labeled as an oxidizer (96562042) in Building E1.
12. Condition 3.D.1. of the Permit requires CHA to transfer hazardous waste from a container that is not in good condition or is leaking to a DOT acceptable container as soon as possible, but no later than two hours from the time the problem was first discovered. During the FY2021 inspection, the inspectors documented the following:
 - 12.1. An oily liquid around the edge and bung on the top of drum 93286538, located in Building E7.
 - 12.2. A spill in the containment of Building 69, near the southwest corner, that had not been cleaned up.
 - 12.3. The tops bulging on drums 94991609 and 94991611 in Building E3.
 - 12.4. Containers 95356548-9, five-gallon plastic containers, located in Building 68 with bulging tops.
 - 12.5. Several 55-gallon poly drums in Building 69 that were bulging.

13. Condition 3.D.6. of the Permit requires CHA to maintain containers in a closed state except when the Permittee is adding or removing wastes or treatment reagents, as allowed by the Permit, to or from the containers. During the FY2021 inspection, the inspectors documented the following:
 - 13.1. Four metal drums with caution tape around them in row K of Building E5, two of which were missing bungs.
 - 13.2. Containers 96981096-7 stored in Building E5 that were bent such that the lids would not securely fit on them, and waste was visible.
 - 13.3. A tote in Building E1 (96543016) with a missing upper cap. A piece of plastic had been stuffed into the hole.
 - 13.4. Seventeen drums located on the sludge direct burn pad did not have bungs in them. Tape had been placed over the bung holes. The tape did not seal the openings.
14. Condition 3.D.22 of the Permit requires CHA to store infectious waste at or below 40 degrees Fahrenheit if it is on site longer than seven days.
 - 14.1. On March 30, 2021, CHA notified the Director (DSHW-2021-004721) that CHA held two containers of infectious waste outside of refrigerated storage for more than seven days.
 - 14.2. On April 7, 2021, CHA notified the Director (DSHW-2021-005604) that CHA held a container of infectious waste outside of refrigerated storage for more than seven days.
15. Condition 3.D.23 of the Permit requires CHA to incinerate infectious waste as soon as possible, but not to exceed 60 days after collection from the generator.
 - 15.1. On February 25, 2021, CHA notified the Director (DSHW-2021-003151) that CHA failed to incinerate a container of infectious waste within 60 days.
 - 15.2. On March 30, 2021, CHA notified the Director (DSHW-2021-004721) that CHA failed to destroy 12 containers of infectious waste within 60 days.
 - 15.3. On August 27, 2021, CHA notified the Director (DSHW-2021-013202) that CHA failed to incinerate two containers of infectious waste within 60 days.
16. Condition 4.D.23 of the Permit requires CHA to bring the pH of a tank contents to within 4.5 and 12.5 within four days of noticing the excursion. On April 20, 2021, CHA notified the Director (DSHW-2021-005941) that CHA failed to bring a tank's pH back within 4.5 to 12.5 or feed the contents to the incinerator within four days.
17. Section 1 of Attachment 1 to the Permit requires CHA to manage wastes generated and then processed at the facility in accordance with the same waste analyses and procedures as waste received from off-site sources. During the FY2021 inspection, the inspectors documented the following:
 - 17.1. CHA generated the waste contained in drums 97158662-5. Before use, the drums held a flammable fiberglass resin. The In-House Sample Form indicated drums 97158662-5 were empty. The incineration chemistry assigned to drums 97158662-5 corresponds to a DOT Hazard Division of 2.1 (flammable gas). However, CHA assigned profile AG-LCCRD to drums 97158662-5, which specifies that the waste is a liquid with no solids. Profile AG-LCCRD also indicates that the DOT Hazard Class should be 3 (flammable liquids).

- 17.2. Drum 97045262 contained CHA site-generated waste (samples from the on-site lab). CHA assigned an incineration chemistry to drum 97045262 that corresponds to a DOT Hazard Division of 4.1 (flammable solids). However, CHA also assigned the waste to profile AG-LCCRD which specifies that the waste is a liquid with no solids and that the DOT Hazard Class should be 3 (flammable liquids) instead of 4.1.
18. Section 3.0 of Attachment 1 to the Permit requires that CHA clearly document the waste category for each waste stream accepted at the facility by noting the Waste Category Code (WCC) for each waste stream on the Waste Receiving Report (WRR) and/or in the waste tracking system. Table 2 in Section 3.0 of Attachment 1 to the Permit assigns APHIS waste the WCC of 8. This waste category is then used to determine the proper incineration chemistry per Section 3.3 of Attachment 1 to the Permit. During the FY2021 inspection, the inspectors documented the following:
 - 18.1. CHA assigned 17 drums of APHIS waste (from manifests 015510071FLE and 015905511FLE) the WCC of 3 (consolidation containers). The incineration chemistry applied to those containers corresponds to that for the DOT hazard class of 5.1 (oxidizers).
 - 18.2. CHA assigned 23 drums of APHIS waste (from manifests 015394808FLE and 015736540FLE) the WCC of 4 (debris).
 - 18.3. CHA assigned six drums of APHIS waste (from manifest 015502685FLE) the WCC of 1.4 (sampleable mixture).
 - 18.4. On September 1, 2021, CHA notified the Director (DSHW-2021-013822) that CHA used improper Waste Analysis Plan characterization codes for several containers. CHA had assigned five shipments of waste containing APHIS materials the incorrect WAP characterization codes.
19. Section 3.1 of Attachment 1 to the Permit requires each waste stream (defined as a line item on a manifest from the same source of generation delivered with the same waste load) to have a profile prepared and signed by the generator. The profile must include the generator's name and address. During the FY2021 inspection, the inspectors documented the following:
 - 19.1. Drum 95909354 was shipped to CHA on June 29, 2021 on line 1 of manifest 015422192FLE. The manifest identified the generator as Versum Materials US, LLC in Carlsbad, California. Drum 95909354 was shipped under profile LRCTD. The LRCTD profile lists Clean Harbors Environmental Services in Norwell, Massachusetts as the generator.
 - 19.2. Drum 96218898 was shipped to CHA on July 16, 2021 on line 2 of manifest 015524887FLE. The manifest identified the generator as Carson High School in Carson City, Nevada. Drum 96218898 was also shipped under profile LRCTD. The LRCTD profile lists Clean Harbors Environmental Services in Norwell, Massachusetts as the generator.
 - 19.3. Drum 94865900 was shipped to CHA on May 24, 2021, on line 2 of manifest 014768314FLE. The manifest identifies the generator as the Arizona Department of Public Safety in Phoenix, Arizona. Drum 94865900 was shipped under profile LA99H. The LA99H profile lists Clean Harbors Environmental Services in Norwell, Massachusetts as the generator.
 - 19.4. Drum 96755525 was shipped to CHA on August 12, 2021 on line 2 of manifest 015863468FLE. The manifest identifies the generator as the Diamond Fork Middle School in Springville, Utah. Drum 96755525 was also shipped under profile LA99H. The LA99H profile lists Clean Harbors Environmental Services in Norwell, Massachusetts as the generator.

- 19.5. Drum 96386419 was shipped to CHA on July 23, 2021 on line 1 of manifest 011771375FLE. The manifest identifies the generator as Seattle Children's Hospital in Seattle, Washington. Drum 96386419 was shipped under profile LBRU. The LBRU profile lists Clean Harbors Environmental Services in Norwell, Massachusetts as the generator.
20. Section 3.1 of Attachment 1 to the Permit requires CHA to electronically document each final profile approval in CHA's WIN database as approved with a one-year expiration date, and that CHA must provide this electronic documentation upon request. During the FY2021 inspection, the inspectors documented the following:
- 20.1. CHA failed to provide the electronic documentation of approval for the profile LRCTD as it was applied to drums 95770558 and 96120393. CHA stated that the process for approving generic profiles was not followed by the field technicians, so they have no documentation to show that the profiles for drums 95770558 and 96120393 were approved by Clean Harbors.
 - 20.2. Drum 96848220 was shipped to CHA on manifest 022039430JJK under the profile CH2218411-LP. The manifest listed the generator as the Drug Enforcement Administration. On the manifest, the profile was switched to LCCRB. CHA accepted the drum under the new profile (LCCRB). CHA failed to provide documentation that profile LCCRB is associated with profile CH2218411-LP or drum 96848220. CHA failed to provide documentation that profile LCCRB is approved for the Drug Enforcement Administration.
 - 20.3. Drum 96848221 was shipped to CHA on manifest 022039430JJK under the profile CH2218411-LP. The manifest listed the generator as the Drug Enforcement Administration. On the manifest, the profile was switched to LCCRD. CHA accepted the drum under the new profile (LCCRD). CHA failed to provide documentation that profile LCCRD is associated with profile CH2218411-LP. CHA failed to provide documentation that profile LCCRD is approved for the Drug Enforcement Administration.
21. Section 3.2 of Attachment 1 to the Permit requires CHA to comply with the procedures specified in Attachment 1 for receiving loads of waste, performing fingerprint analyses, accepting the waste, and handling discrepancies. During the FY2021 inspection, the inspectors documented the following:
- 21.1. CHA accepted drums 94482201-4 under the non-ignitable, non-hazardous waste profile 1882809 even though they had tested positive for ambient ignitability.
 - 21.2. The WAPCC on the waste receiving report did not match the WAPCC in waste tracking for drum 96341828.
 - 21.3. The lab results in waste tracking indicate that drums 97158662-5 were consolidation containers. CHA assigned drums 97158662-5 to the profile AG-LCCRD which indicates the drums are lab packs. The In-House Sample Form indicates that they are empty drums.
 - 21.4. The lab results in waste tracking indicate that drum 91212757 was a lab pack. CHA did not have an inventory sheet for the drum. The manifest viewing section in waste tracking indicated the waste in the drum was DOT hazard class 3 (flammable liquid). CHA assigned incineration chemistry to this container that did not match that for a flammable liquid lab pack.
 - 21.5. The lab results in waste tracking indicate that drum 96420329 was a lab pack. The WRR indicated that it was a consolidation container. CHA did not have an inventory sheet for the drum. The manifest viewing section in waste tracking indicated the waste in the drum was DOT hazard class 3 (flammable liquid). CHA assigned incineration chemistry to this container that did not match that for a flammable liquid lab pack. The chemistry did match that for a flammable liquid consolidation container.

- 21.6. The lab results in waste tracking indicate that drums 96527850-2 were lab packs. The WRR indicated that they were consolidation containers. CHA did not have inventory sheets for the drums. The manifest viewing section in waste tracking indicated the waste in the drums was DOT hazard class 3 (flammable liquid). CHA assigned incineration chemistry to these containers that did not match that for flammable liquid lab packs. The chemistry did match that for flammable liquid consolidation containers.
- 21.7. Drum 96848221 was categorized as a lab pack. The drum had a Clean Harbors Packing List which indicated that there were 55 gallons of acetone in a 55-gallon container and not a lab pack. The container also was a 10-gallon plastic bucket, not a 55-gallon drum.
- 21.8. Drum 96848220 was categorized as a lab pack. The drum had a Clean Harbors Packing List which indicated that there were 55 gallons of sulfuric/hydrochloric acid in a 55-gallon container and not a lab pack. Waste tracking indicates that it was a 5-gallon container.
- 21.9. Drum 96723683 was categorized as a lab pack. The drum was shipped as a non-DOT regulated material. The assigned chemistry did not correspond with a non-hazardous lab pack combination but did correspond with a non-hazardous consolidation container combination. The WRR indicated that it was medical waste.
- 21.10. Additionally, on June 25, 2021, CHA notified the Director (DSHW-2021-009533) that CHA failed to complete the ignitability screen at 140°F for containers before acceptance. CHA discovered their Setaflash in E5 had become inoperable on May 27, 2021 and had not been replaced.
22. Table 7 in Section 5 of Attachment 1 to the Permit requires CHA to comply with ASTM D4978-89 Test Method B when conducting the Reactive Sulfide Screen (Dräger) Prime test. The CHA SOP developed based on this method, SOP #405, describes the formulations for necessary reagents including a phosphate buffer. During the FY2021 inspection, the inspectors documented the phosphate buffer used in the E5 fingerprint lab was past the expiration date on the label. The phosphate buffer was also labelled as 3592-15-11, but the logbook 3592 did not exist. Inspectors determined that the buffer should have been labelled 3392-15-11. Based on the correct entry for the phosphate buffer, 3392-15-11, the solution was formulated from DI water, potassium phosphate monobasic, and sodium phosphate tribasic. In accordance with the approved SOP #405, the correct formulation is DI Water, trisodium phosphate, and phosphoric acid.
23. Section 3.3.1.2 of Attachment 1 to the Permit requires CHA to conduct compatibility testing as described in ASTM method D5058-90 Test Method A for all liquids and sludges, either containerized or in bulk, prior to being commingled. On January 19, 2021, CHA notified the Director (DSHW-2021-000963) that CHA did not perform compatibility testing as described in ASTM method D5058-90 before liquid from a tanker was pumped into a tank.
24. Section 3.3.1.3 of Attachment 1 to the Permit requires CHA to conduct compatibility testing as described in EPA-600/2-80-076 or ASTM method D5058-90 Test Method A for all solids, either containerized or in bulk, prior to being commingled. On February 4, 2021, CHA notified the Director (DSHW-2021-001911) that CHA placed site generated slag into a bulk solids tank without verifying compatibility.
25. Section 3.3.2 of Attachment 1 to the Permit states CHA may choose not to evaluate lab pack matrix samples for PCBs and instead rely on generator knowledge. If CHA elects to rely on generator knowledge, then CHA must (1) evaluate profile information for each individual lab pack subject to the matrix requirements and (2) use the highest documented PCB concentration from the generator profile or inventory sheet to determine the PCB burn chemistry. On February 25, 2021, CHA notified the Director (DSHW-2021-003152) that CHA incinerated a lab pack container that contained PCB without entering the PCB burn chemistry.

26. Section 7.3 of Appendix 1 to Attachment 1 to the Permit requires CHA to maintain logbooks with sufficient information recorded to allow someone to reconstruct the sampling without reliance on the collector's memory. During the FY2021 inspection, the inspector(s) documented the following:
- 26.1. Potassium permanganate in the data packet for Mercury analysis conducted on September 10, 2021 was listed as 3421-02-04. The logbook entry at 3421-02-04 is not potassium permanganate.
 - 26.2. Potassium persulfate in the data packet for Mercury analysis conducted on September 10, 2021 was listed as 3419-01-19. This number traced correctly, but the logbook listed the expiration date of the potassium persulfate later than the expiration date of one of the constituent reagents.
 - 26.3. One of the constituent reagents for hydroxylamine hydrochloride had an expiration date of January 22, 2024 when it was logged in book 3496 as a constituent reagent. The expiration date listed in book 3421 and on the bottle was January 22, 2021.
 - 26.4. There is no standard on how expiration dates are established. These dates were logged inconsistently, and numerous reagents were used past expiration dates. This was mentioned in a quarterly audit and not addressed.
27. Section 15 of Appendix 1 to Attachment 1 to the Permit states the Clean Harbors Aragonite Quality Control Officer is responsible for reporting to the Laboratory Manager every four months on the performance of measurement systems and data quality. Section 4.1 of the same Appendix states the role of QA Compliance Officer will be filled by the Laboratory Supervisor. During the FY2021 inspection, the inspectors documented that the Laboratory Manager, Dave Lunt, not the Laboratory Supervisor, compiled both Reports to Management.
28. Section 5 of Attachment 3 to the Permit lists the items that will be inspected, the frequency of inspection, and a brief description of what is being inspected. CHA is required to conduct the inspections for the items listed in Section 5. During the FY2021 inspection, the inspectors documented the following:
- 28.1. The Daily When in Use check of Shred Tower equipment and piping integrity was not being inspected.
 - 28.2. The drill for the 1st quarter had "no" listed as the response for multiple groups in answer to the question of whether the personnel listed on the form responded properly. "No" was also the answer to the question of whether all plant personnel were accounted for, yet the inspection was listed as passing.
29. Section 2 of Attachment 4 to the Permit outlines CHA's required training program. CHA is required for all personnel to have job titles from the list in Table 2 and complete the training specified in Table 2. The required training must occur within six months of the date of hire, six months of assignment to Aragonite, or six months of a new position at Aragonite, whichever is applicable.
- 29.1. The roster provided to document the forklift training for G. Perez on January 15, 2021 listed the course as HS4020, which is an old course number for forklift training supposedly no longer in use.
 - 29.2. L. Thomas did not complete HS6000 (CPR), SS3242 (Venting Lines), HS6020 (Fire Prevention), or SS4016 (Compressed Gases) within the first six months of employment.
 - 29.3. There is no record of HS6005, First Aid, or SS2016, Site Orientation, in the training summary or supporting documentation provided for L. Thomas.
 - 29.4. T. Young's training transcript shows that he completed all eight of the HAZWOPER refresher courses in 2021, but no documentation was provided for any of these courses.

- 29.5. T. Newman's course SS2001, Permit Refresher, is shown on the training summary as being completed on April 5, 2021, but the supporting documentation indicates the course was completed on August 30, 2021.
- 29.6. There is no record of SS2017 (Site Orientation Refresher) or HS6020 (Fire Prevention Refresher) in either the training summary or provided documentation for T. Newman.
- 29.7. There is no record of AG1300 (Forklift) or AG1685 (Permit Refresher (TSCA Portion)) in either the training summary or provided documentation for T. Culver.
- 29.8. For T. Culver, Courses HS6020 (Fire Prevention Refresher) and SS2025 (Contingency Plan Refresher) were not listed in the training summary. Rosters and exams were provided indicating both courses were completed on September 9, 2021. However, both courses were late, as the initial Fire Prevention and Contingency Plan trainings were completed March 18, 2020.
- 29.9. Additionally, on July 20, 2021, CHA notified the Director (DSHW-2021-010408) that two employees did not complete required training within six months of their dates of hire.
30. Section 1.2 of Attachment 8 to the Permit specifies how CHA is to manage reject wastes. Several different scenarios are presented, but under no circumstance can waste rejected by CHA remain at the facility for longer than 60 days.
 - 30.1. On January 7, 2021, CHA notified the Director (DSHW-2021-000387) that CHA failed to ship a rejected tanker off-site within 60 days.
 - 30.2. On January 14, 2021, CHA notified the Director (DSHW-2021-000895) that CHA failed to ship a rejected container off-site within 60 days.
 - 30.3. On February 25, 2021, CHA notified the Director (DSHW-2021-003148) that CHA failed to ship a rejected container off-site within 60 days.
 - 30.4. On June 2, 2021, CHA notified the Director (DSHW-2021-008458) that CHA failed to ship a rejected container off-site within 60 days.
 - 30.5. On June 29, 2021, CHA notified the Director (DSHW-2021-009665) that CHA failed to ship a rejected container off-site within 60 days.
 - 30.6. On July 8, 2021, CHA notified the Director (DSHW-2021-009930) that CHA failed to ship two rejected containers off-site within 60 days.
31. Attachment 13 to the Permit requires CHA to conduct calibrations at least as often as the minimum required frequency of calibration for each instrument listed in the Instrument Calibration Schedule. During the FY2021 inspection, the inspectors documented the following:
 - 31.1. CHA failed to provide records for the monthly calibration for tag AT3013, Drum Direct Burn Glove Box LEL, being completed in April 2021.
 - 31.2. CHA failed to calibrate tag numbers AT1010, Laser ABC O2 measurement monitors, though they are listed in Attachment 13.
 - 31.3. CHA failed to conduct weekly function tests/operability checks, at least on the paper record, in April 2021 for the O2 and LEL monitors in the Shred Tower. The expected results for weekly function testing for the O2 and LEL were also unclear. Some inspections showed Yes/No, while other inspections showed N/A.

32. Section 2.1 of Attachment 14 to the Permit specifies that CHA shall maintain the flow of combustion air above 12,000 acfm when the vacuum pump and dilution air fan are operating, and above 6,775 acfm when they are not operating. During the FY2021 inspection, the inspectors documented three instances (June 9, 2021, June 24, 2021, and July 16, 2021) where the dilution air fan was operating, and the combustion air flow was less than 12,000 acfm.
33. Section R315-262-17(a) of the Utah Administrative Code specifies the units a large quantity generator is allowed to use when accumulating hazardous waste. These units are containers (§262-17(a)(1)), tanks (§262-17(a)(2)), drip pads (§262-17(a)(3)), and containment buildings (§262-17(a)(4)). During the FY2021 inspection, the inspectors documented a large, uncontained pile of hazardous waste debris inside the double doors on the west side, second floor of the bulk solids building (the room that contains the NDOs associated with the shredder side access door). CHA indicated the waste had been removed from the shredder.
34. Section R315-262-17(a) of the Utah Administrative Code states a large quantity generator may not accumulate waste onsite for longer than 90 days.
 - 34.1. On December 4, 2020, CHA notified the Director (DSHW-2020-017708) that CHA held a roll-off of site-generated residue in excess of 90 days.
 - 34.2. On June 9, 2021, CHA notified the Director (DSHW-2021-008745) that CHA held a roll-off of site-generated residue in excess of 90 days.
 - 34.3. On September 29, 2021, CHA notified the Director (DSHW-2021-015781) that CHA held a roll-off of site-generated residue in excess of 90 days.
35. Section R315-262-17(a)(1)(iv)(A) of the Utah Administrative Code requires containers of hazardous waste be closed except when it is necessary to add or remove waste. Section R315-262-17(a)(5)(i) requires containers of hazardous waste to be labelled with the words “Hazardous Waste”, and indication of the hazards, and the accumulation start date. During the FY2021 inspection, the inspector(s) documented the following:
 - 35.1. An unlabeled and open blue poly 55-gallon drum located in the corrosive direct feed station.
 - 35.2. An open white poly 55-gallon drum labelled as hazardous waste in the north pumphouse of the tank farm.
 - 35.3. An open 5-gallon plastic bucket labelled as hazardous waste located on the grating below the Komar auger.
 - 35.4. Approximately 16 one- to five-gallon cans/buckets and a clear plastic garbage bag containing what CHA ultimately determined to be hazardous waste. None of the containers were labelled and many were open.
36. Section R315-262-23(f) of the Utah Administrative Code requires rejected shipments of hazardous waste to be shipped on a manifest. On January 29, 2021, CHA notified the Director (DSHW-2021-001650) that CHA sent three rejected hazardous waste containers off-site without a manifest.
37. Section R315-268-50(b) of the Utah Administrative Code prohibits treatment, storage, and disposal facilities from accumulating hazardous waste for greater than one year.
 - 37.1. During the FY2021 inspection, the inspectors documented drum 89301243 was received at CHA on August 13, 2020 and was not incinerated until September 3, 2021.

- 37.2. On May 19, 2021, CHA notified the Director (DSHW-2021-007794) that CHA stored a hazardous waste container over a year.
38. Section R315-268-57 of the Utah Administrative Code prohibits the dilution of metal bearing wastes via incineration.
- 38.1. On November 6, 2020, CHA notified the Director (DSHW-2020-016308) that CHA improperly incinerated metal bearing waste.
- 38.2. On July 9, 2021, CHA notified the Director (DSHW-2021-009931) that CHA improperly incinerated mercury bearing waste.

DETERMINATION OF VIOLATIONS

In accordance with Utah Code § 19-6-101, *et seq.*, and based on the foregoing FINDINGS, CHA has violated provisions of the Rules, the Act, and the Permit applicable to its facility. Specifically, CHA has violated the following:

1. Condition 1.Q.11. of the Permit by failing to report a baghouse bypass within seven days. (*See Finding 7*).
2. Condition 2.B. of the Permit by failing to or incorrectly notifying generators that they had the appropriate permits for, and will accept, the waste the generator is planning on shipping. (*See Finding 8*).
3. Condition 2.C.2.b. of the Permit by improperly handling and incinerating two containers of pyrophoric materials. (*See Finding 9*).
4. Condition 3.C.3. of the Permit by storing flammable liquids outside of Buildings E6 and E7 for longer than ten days. (*See Finding 10*).
5. Condition 3.C.5. of the Permit by storing oxidizers next to incompatible materials. (*See Finding 11*).
6. Condition 3.D.1. of the Permit by failing to transfer hazardous waste from a container that is not in good condition or is leaking to a DOT acceptable container. (*See Finding 12*).
7. Condition 3.D.6. of the Permit by storing hazardous waste in containers that were not closed. (*See Finding 13*).
8. Condition 3.D.22 of the Permit by failing to store infectious waste at or below 40 degrees Fahrenheit if it is on site longer than seven days. (*See Finding 14*).
9. Condition 3.D.23 of the Permit by failing to incinerate infectious waste within 60 days after collection from the generator. (*See Finding 15*).
10. Condition 4.D.23 of the Permit by failing to bring the pH of a tank contents to within 4.5 and 12.5 within four days of noticing the excursion. (*See Finding 16*).
11. Section 1 of Attachment 1 to the Permit by failing to conduct adequate waste analyses on wastes generated onsite. (*See Finding 17*).
12. Section 3.0 of Attachment 1 to the Permit by failing to categorize APHIS wastes with the proper Waste Category Code (WCC). (*See Finding 18*).
13. Section 3.1 of Attachment 1 to the Permit by failing to have profiles that are specific to a generator and waste stream, and that include the generator's name and address. (*See Finding 19*).
14. Section 3.1 of Attachment 1 to the Permit by failing to provide electronic documentation for final profile approval. (*See Finding 20*).
15. Section 3.2 of Attachment 1 to the Permit by failing to properly receive loads of waste, perform fingerprint analyses, accept the waste, and handle discrepancies. (*See Finding 21*).
16. Section 5 of Attachment 1 to the Permit by failing to follow ASTM D4978-89 Test Method B and SOP #405 when running the Reactive Sulfide Screen (Dräger) Prime test. (*See Finding 22*).

17. Section 3.3.1.2 of Attachment 1 to the Permit by failing to test all liquids or sludges for compatibility as described in ASTM method D5058-90 Test Method A prior to commingling. (*See Finding 23*).
18. Section 3.3.1.3 of Attachment 1 to the Permit by failing to test solids for compatibility as described in EPA-600/2-80-076 or ASTM method D5058-90 Test Method A prior to commingling. (*See Finding 24*).
19. Section 3.3.2 of Attachment 1 to the Permit by failing to use the highest documented PCB concentration from the generator profile or inventory sheet when assigning PCB chemistry to a lab pack. (*See Finding 25*).
20. Section 7.3 of Appendix 1 to Attachment 1 to the Permit by failing to maintain logbooks that contain sufficient information to allow someone to reconstruct the sampling without reliance on the collector's memory. (*See Finding 26*).
21. Section 15 of Appendix 1 to Attachment 1 to the Permit by having the Laboratory Manager complete reports on the performance of measurement systems and data quality. (*See Finding 27*).
22. Section 5 of Attachment 3 to the Permit by failing to complete required inspections. (*See Finding 28*).
23. Section 2 of Attachment 4 to the Permit by failing to complete required trainings at the prescribed intervals and frequencies. (*See Finding 29*).
24. Section 1.2 of Attachment 8 to the Permit by failing to ship rejected waste offsite within 60 days of the date it was received. (*See Finding 30*).
25. Attachment 13 to the Permit by failing to conduct calibrations at the required frequency or intervals. (*See Finding 31*).
26. Section 2.1 of Attachment 14 to the Permit by failing to maintain the flow of combustion air above 12,000 acfm when the vacuum pump and dilution air fan are operating. (*See Finding 32*).
27. Section R315-262-17(a) of the Utah Administrative Code by failing to accumulate waste in a container, tank, drip pad, or containment building. (*See Finding 33*).
28. Section R315-262-17(a) of the Utah Administrative Code by accumulating site-generated waste onsite for longer than 90 days. (*See Finding 34*).
29. Section R315-262-17(a)(1)(iv)(A) of the Utah Administrative Code by failing to store site-generated hazardous waste in closed containers labelled with the words "Hazardous Waste", and indication of the hazards, and the accumulation start date. (*See Finding 35*).
30. Section R315-262-23(f) of the Utah Administrative Code by failing to ship rejected hazardous waste offsite on a manifest. (*See Finding 36*).
31. Section R315-268-50(b) of the Utah Administrative Code by accumulating hazardous waste for greater than one year. (*See Finding 37*).
32. Section R315-268-57 of the Utah Administrative Code by incinerating and therefore improperly diluting metal bearing. (*See Finding 38*).

ORDER

Clean Harbors Aragonite, LLC is hereby ordered to take the following actions to address certain FINDINGS and/or correct certain VIOLATIONS. Within 30 days of the date of issuance of this NOV/CO, CHA shall:

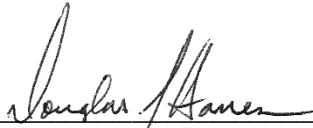
1. Provide the Director with the following information and analyses for VIOLATIONS 4 through 7, 11, 12, 15, 16, 20, 26, and 27.
 - a. Determination of the root cause of the violation;
 - b. The specific corrective actions taken; and
 - c. How these corrective actions shall prevent violations from recurring
2. Implement procedures to ensure that all future Laboratory Reports to Management are written by the Laboratory Supervisor / Quality Control Officer and are reviewed by the Laboratory Manager and Plant Manager as specified in Section 15 of Appendix 1 to Attachment 1 to the Permit.

OPPORTUNITY FOR HEARING

This NOTICE OF VIOLATION AND COMPLIANCE ORDER is effective immediately and shall become final unless Clean Harbors Aragonite, LLC 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 19-6-113(2) provides that violation of any order, plan, rule, or other requirement issued or adopted under Title 19, Ch. 6, Pt. 1 may be subject to a civil penalty of up to \$13,000 per day for each day of violation.

Dated this 24th day of June, 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 24th day of June, 2022 by US Certified Mail, Return receipt Requested, to:

William Simmons, Facility GM III
Clean Harbors Aragonite, LLC
11600 North Aptus Road
Grantsville, UT 84029-1339

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7003 2260 0003 2359 0189


Wendy Aske

USPS TRACKING #



First-Class
Postage & Fees
USPS
Permit No. G-10

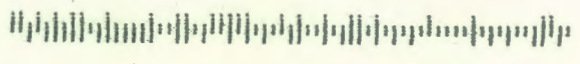
9590 9402 6090 0125 6272 84

United States
Postal Service

* 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

-488060



COMPLETE THIS SECTION

COMPLETE THIS SECTION ON DELIVERY

Complete items 1, 2, and 3.

- 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:

William Simmons, Facility GM III
 Clean Harbors Aragonite, LLC
 11600 North Aptus Road
 Grantsville, UT 84029-1339

A. Signature

Handwritten Signature

- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

6/2/00

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No



9590 9402 6090 0125 6272 84

2. Article Number (Transfer from service label)

7003 2260 0003 2359 0189

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
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- Registered Mail™
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- Signature Confirmation™
- Signature Confirmation Restricted Delivery

KD

PS Form 3811, July 2015 PSN 7530-02-000-9053 *DSHW-2022-013402* Domestic Return Receipt

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In the Matter of:	:	
	:	
CLEAN HARBORS ARAGONITE, LLC	:	STIPULATION AND CONSENT ORDER
Notice of Violation and Compliance Order	:	No. 2210117
No. 2205051	:	
UTD 981 552 177	:	

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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** (Director) pursuant to the Utah Solid and Hazardous Waste Act (the Act), Utah Code § 19-6-101, *et seq.* and Utah Hazardous Waste Rules R315-260 through R315-273 of the Utah Administrative Code (the Rules).

JURISDICTION

1. The Director has jurisdiction over the subject matter of this CONSENT ORDER pursuant to Utah Code §§ 19-6-107 and 19-6-112 and jurisdiction over the Aragonite facility owned and operated by Clean Harbors Aragonite, LLC (CHA). CHA consents to and will not challenge issuance of this CONSENT ORDER or the Director’s jurisdiction to enter and enforce this ORDER. CHA and the Director are the parties to this agreement.
2. The 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. CHA is a Delaware Limited Liability Company registered to conduct business in the State of Utah and is a subsidiary of Clean Harbors, Inc., a Massachusetts corporation also registered to conduct business in the State of Utah. CHA is the owner and operator of the Aragonite facility.
4. The Aragonite facility is a commercial hazardous waste incinerator, transfer, and storage facility located in Tooele County, Utah, and is operated under the provisions of the State-issued Hazardous Waste Part B Permit issued on March 30, 1990, as modified (the Permit). The Permit was renewed and reissued most recently on September 28, 2012.
5. CHA is a “person” as defined in Utah Code § 19-1-103(4) and is subject to all applicable provisions of the Utah Administrative Code (the Rules), the Act, and the Permit.
6. Authorized representatives of the Director conducted a hazardous waste inspection at the Aragonite facility from August 30 to September 16, 2021 (the FY2021 inspection). In addition, the facility self-reported several non-compliance issues during the 2021 fiscal year (October 1, 2020, through September 30, 2021).

7. Based on findings documented during the FY2021 inspection and the self-reported non-compliance, the Director issued NOTICE OF VIOLATION AND COMPLIANCE ORDER No. 2205051 (the NOV/CO) on June 24, 2022, alleging violations by CHA of its Permit and the Utah Administrative Code (DSHW-2022-013402).
8. CHA filed a response to the NOV/CO on July 27, 2022 (DSHW-2022-022210).
9. In accordance with the Civil Penalty Policy, Utah Administrative Code R315-102 of the Rules, which considers such factors as the gravity of the violations, 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.
10. The Director reduced the calculated penalty as a result of self-reporting non-compliance.

STIPULATION AND CONSENT ORDER

11. This CONSENT ORDER has been negotiated in good faith and the parties now wish to fully resolve the NOV/CO without further administrative or judicial proceedings.
12. In full settlement of the violations alleged in the NOV/CO (with the exceptions of Violation 13 and Violation 27, which are discussed below), CHA shall pay a penalty of \$90,030.50. CHA shall make payment as follows:
 - 12.01. A cash payment of \$75,030.50 shall be made within thirty days of the effective date of this CONSENT ORDER as described in ¶ 12.02.
 - 12.02. Payment shall be made to the State of 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 agrees to defer \$10,000.00 of the calculated penalty of \$15,600.00 relating to Violation 13 of the NOV/CO if: (1) CHA immediately removes approval of all currently approved profiles that contain material CHA is not permitted to accept, and (2) CHA investigates the approval process for any future profile that contains material CHA is not permitted to accept and is approved to CHA. CHA will determine the root cause(s) contributing to how the profile was wrongfully approved and document in the facility operating record the corrective actions taken to ensure the root cause(s) does not happen again. This record will be made available to the Division of Waste Management and Radiation Control (Division) upon request.
 - 13.01. If CHA complies with ¶ 13 for a minimum of one year from the effective date of this CONSENT ORDER, the Director agrees to vacate the deferred penalty of \$10,000.
 - 13.02. If the Division finds that CHA fails to comply with ¶ 13 at any point within the year following the effective date of this CONSENT ORDER, CHA shall pay the deferred penalty of \$10,000.00 as described in ¶ 12.02. CHA shall pay the deferred penalty not later than 30 days after the Notice of Violation containing the finding becomes final.

14. During the inspection, CHA immediately corrected the un-containerized waste issue cited as Violation 27 in the NOV/CO. Additionally, in numerous compliance assistance visits throughout the year, inspectors have not witnessed similar violations and agree that this incident is most likely isolated. For these reasons, the Director agrees to defer \$5,000.00 of the calculated penalty of \$10,000.00 relating to Violation 27 of the NOV/CO if: (1) CHA immediately updates operating procedures and training material to ensure that the issues noted in Violation 27 do not recur, and (2) CHA does not store waste pulled from the bulk solids shredder outside of permitted storage henceforth.

14.01. If CHA complies with ¶ 14 for a minimum of one year from the effective date of this CONSENT ORDER, the Director agrees to vacate the deferred penalty of \$5,000.

14.02. If the Division finds that CHA fails to comply with ¶ 14 at any point within the year following the effective date of this CONSENT ORDER, CHA shall pay the deferred penalty of \$5,000.00 as described in ¶ 12.02. CHA shall pay the deferred penalty not later than 30 days after the Notice of Violation containing the finding becomes final.

EFFECT OF CONSENT ORDER

15. 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 CHA and any of CHA's successors, assigns, or other entities or persons otherwise bound by law.

16. 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 CHA in the event of future non-compliance with this CONSENT ORDER, with the Act, with the Rules, or with the Permit; nor shall the State of Utah be precluded in any way from taking appropriate action should such a situation arise again at the CHA facility. However, entry into this CONSENT ORDER shall relieve CHA of all liability for violations which did arise or could have arisen with respect to the allegations contained in the NOV/CO.

PUBLIC PARTICIPATION

17. 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 Administrative 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 consideration indicating the CONSENT ORDER is inappropriate, improper, or inadequate.

EFFECTIVE DATE

18. This CONSENT ORDER shall become effective upon the date of execution by the Director.

SIGNATORY

19. The undersigned representative of Clean Harbors Aragonite, LLC certifies that the representative is authorized to enter into this CONSENT ORDER and to execute and legally bind Clean Harbors Aragonite, LLC.

Pursuant to the Utah Solid and Hazardous Waste Act (the Act), Utah Code § 19-6-101, *et seq.*, in the *Matter of Clean Harbors Aragonite Notice of Violation and Compliance Order No. 2205051*, the parties hereto mutually agree and consent to *STIPULATION AND CONSENT ORDER No. 2210117* as evidenced below:

CLEAN HARBORS ARAGONITE, LLC

THE STATE OF UTAH
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WASTE MANAGEMENT
AND RADIATION CONTROL

Rebecca Underwood, President and EVP

Douglas J. Hansen, Director

Date: _____

Date: _____

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 1

Violation Description: **Failure to Notify of Baghouse Bypass**

1. Gravity Based Penalty: **\$155.00**
 - (a) Potential for Harm – **MINOR**
CHA personnel responded to the baghouse bypass appropriately.
 - (b) Extent of Deviation – **MINOR**
CHA still self-reported the baghouse bypass, only not within the requisite timeframe.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – Decreased 30% – CHA notified the Division of the violation.
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – N/A
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – The Division has determined that the failure to send notification of the baghouse bypass did not provide CHA with any economic benefit.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$108.50

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 2

Violation Description: **Failure to Notify Generators CHA had Proper Permits**

1. Gravity Based Penalty: **\$4,940.00**
 - (a) Potential for Harm – **MODERATE**
Failing to notify, or inaccurately notifying, generators that CHA has the appropriate permits to manage their waste can result in wastes arriving at CHA that they cannot handle and ultimately must reject. This increases the distance the waste needs to be transported as well as the number of people potentially exposed.
 - (b) Extent of Deviation – **MAJOR**
CHA has indicated that they can receive waste that is explicitly prohibited in their permit. The waste was clearly labelled both on the drum and on the associated profiles and manifests.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – N/A
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – N/A
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – The Division has determined that the failure to send notifications to generators did not provide CHA with any economic benefit. Also see violations 3 and 13.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$4,940.00

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 3

Violation Description: **Incinerating Pyrophoric Materials**

1. Gravity Based Penalty: **\$4,940.00**
 - (a) Potential for Harm – **MODERATE**
CHA is not properly equipped to handle or manage pyrophoric waste.
 - (b) Extent of Deviation – **MAJOR**
CHA is prohibited from accepting pyrophoric wastes, let alone incinerating them. Incinerating a waste that should not have been accepted implies numerous processes failed.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – Decreased 30% – CHA notified the Division of the violation.
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – N/A
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – Economic benefit \$400. The Division estimates this to be the cost to transport the waste in question to a facility that could accept and treat it.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$3,858.00

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 4

Violation Description: **Improperly Storing Flammable Liquids**

1. Gravity Based Penalty: **\$3,380.00**
 - (a) Potential for Harm – **MODERATE**
The storage areas where flammable liquids are permitted are equipped with additional fire suppression mechanisms. Storing flammable liquids outside of these areas for extended periods of time increases the risk that a fire could occur in an area that is not equipped to handle it.
 - (b) Extent of Deviation – **MODERATE**
Multiple containers were found to be stored outside of E6 or E7 for extended periods of time. However, all containers in question were kept in general hazardous waste storage areas.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – N/A
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – N/A
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – The Division has determined that improperly storing flammable liquids did not provide CHA with any economic benefit.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$3,380.00

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 5

Violation Description: **Storing Oxidizers Next to Incompatible Materials**

1. Gravity Based Penalty: **\$6,760.00**
 - (a) Potential for Harm – **MAJOR**
A container labelled as an oxidizer was stored on the same pallet as a container labelled as a flammable liquid. These two classes of materials are incompatible and could cause a fire or explosion if spilled or mixed.
 - (b) Extent of Deviation – **MINOR**
The drums in question were in the OFFC storage area, which, except for the incompatibility, was appropriate. Also, the drums were segregated immediately during the inspection.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – N/A
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – N/A
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – The Division has determined that storing incompatible materials improperly did not provide CHA with any economic benefit.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$6,760.00

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 6

Violation Description: **Failure to Transfer Hazardous Waste from a Container in Poor Condition**

1. Gravity Based Penalty: **\$2,080.00**
 - (a) Potential for Harm – **MODERATE**
Inspectors noted evidence of spills and bulging drums/lids. Both increase the potential risk of exposure to workers and the environment.
 - (b) Extent of Deviation – **MINOR**
The majority of containers managed at the facility were in good condition. Additionally, this has not been a regular or recurring finding during compliance assistance visits.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – N/A
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – N/A
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – The Division has determined that by not transferring improperly contained waste did not provide CHA with any economic benefit as they have overpack containers on site.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$2,080.00

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 7

Violation Description: **Storing Hazardous Waste in Open Containers**

1. Gravity Based Penalty: **\$2,080.00**
 - (a) Potential for Harm – **MODERATE**
Open containers increase the potential of spillage and risk of exposure to employees.
 - (b) Extent of Deviation – **MINOR**
Most of the containers on-site were managed properly. Additionally, this has not been a regular or recurring finding during compliance assistance visits.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – N/A
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – N/A
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – The Division has determined that the open containers did not provide CHA with any economic benefit as they have proper containers and overpack containers on site.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$2,080.00

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 8

Violation Description: **Storing Infectious Waste Above 40 °F**

1. Gravity Based Penalty: **\$260.00**
 - (a) Potential for Harm – **MINOR**
The containers were not stored above 40 °F for an extended period of time and were stored in areas with secondary containment.
 - (b) Extent of Deviation – **MINOR**
Only four drums were stored outside of the correct time/temperature window. Most drums were stored correctly.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – Decreased 30% – CHA notified the Division of the violation.
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – Increased 10% – This issue was cited in the previous NOV/SCO.
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – The Division has determined that storing the containers above the permitted temperature did not provide CHA with any economic benefit.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$208.00

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 9

Violation Description: **Storing Infectious Waste for more than 60 Days**

1. Gravity Based Penalty: **\$260.00**
 - (a) Potential for Harm – **MINOR**
The wastes in question were stored properly and did not present an increased risk to human health or the environment for staying on site more than 60 days.
 - (b) Extent of Deviation – **MINOR**
The majority of infectious waste managed by the facility are managed appropriately. Additionally, CHA was operating under an extension on their unloading timelines, which, while not an excuse, did contribute to the violation.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – Decreased 30% – CHA notified the Division of the violation.
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – N/A
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – The Division has determined that storing the containers outside of refrigerated storage did not provide CHA with any economic benefit.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$182.00

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 10

Violation Description: **Tank pH excursion longer than four days**

1. Gravity Based Penalty: **\$155.00**
 - (a) Potential for Harm – **MINOR**
The pH of the tank was never less than 4.0. Also, the low pH excursions are less likely to corrode the tanks than high pH excursions.
 - (c) Extent of Deviation – **MINOR**
The pH of the tank was corrected quickly.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – Decreased 30% – CHA notified the Division of the violation.
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – N/A
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – The Division has determined that the pH excursion did not provide CHA with any economic benefit.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$108.50

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 11

Violation Description: **Inadequate Waste Analysis for Onsite Waste**

1. Gravity Based Penalty: **\$2,600.00**
 - (a) Potential for Harm – **MODERATE**
Improperly analyzing wastes can lead to mischaracterizing the hazards and therefore mismanaging the waste.
 - (b) Extent of Deviation – **MINOR**
Multiple different analyses were either not completed or completed incorrectly.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – N/A
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – N/A
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – The Division has determined that the waste analysis discrepancies did not provide CHA with any economic benefit. In most cases, the analyses were conducted but conducted incorrectly. Therefore, there is no personnel time that was saved. Also, the management of the waste would not have changed dramatically had the waste analysis been conducted properly.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$2,600.00

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 12

Violation Description: **Incorrectly categorizing APHIS Waste**

1. Gravity Based Penalty: **\$155.00**
 - (a) Potential for Harm – **MINOR**
The same, or similar, characterization was used to manage the waste as would have been required.
 - (b) Extent of Deviation – **MINOR**
Most of the waste was characterized properly.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – Decreased 30% – CHA notified the Division of the violation.
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance - Increased 10% – This issue was cited in the previous NOV/SCO.
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – The Division has determined that the incorrect categorization of APHIS waste did not provide CHA with any economic benefit.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$124.00

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 13

Violation Description: **Profiles not Specific to a Generator**

1. Gravity Based Penalty: **\$13,000.00**
 - (a) Potential for Harm – **MAJOR**
Profiles are intended to describe specific waste streams from specific generators so that transporters and disposal facilities know what they will be managing. Non-specific profiles can lead to waste being mismanaged and transported unnecessarily.
 - (b) Extent of Deviation – **MAJOR**
Multiple different, non-specific profiles were used on different waste streams from various generators.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – N/A
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – Increased 20%, previously cited in FY19 and FY20 SCOs, but are held in abeyance until the EPA completes their enforcement action
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – The Division has determined that the economic benefit to CHA is too difficult to determine. The economic benefit to Clean Harbors as a corporation is likely considerable, as removing the non-specific profiles would likely require completely reconfiguring their Central Profiling / Waste Routing processes. However, what portion of this economic benefit carries over to Aragonite specifically is impossible to determine.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$15,600.00

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 14

Violation Description: **Failure to Provide Final Profile Approval**

1. Gravity Based Penalty: **\$780.00**
 - (a) Potential for Harm – **MINOR**
Profiles were assigned to the waste streams in question, but the facility was not able to properly document the final profile approval.
 - (b) Extent of Deviation – **MODERATE**
There were several unique scenarios involving different profiles and waste streams from different generators where final approval was unavailable. This implies the violation was more than a one-off accident.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – N/A
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – N/A
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – The Division has determined that the failure to provide final profile approval did not provide CHA with any economic benefit.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$780.00

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 15

Violation Description: **Discrepancies in Waste Acceptance Processes**

1. Gravity Based Penalty: **\$10,000.00**
 - (a) Potential for Harm – **MAJOR**

The waste acceptance process is designed to ensure that wastes arriving at the facility match the profile and that wastes are managed properly. Failing to properly characterize a waste can lead to mismanagement. Additionally, failing to properly identify and characterize waste harms the foundational purpose of the hazardous waste program, which includes proper characterization / verification and treatment of hazardous waste.
 - (b) Extent of Deviation – **MODERATE**

Numerous instances were documented during the inspection, but the majority of the wastes managed at the facility are accepted properly.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – N/A
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – N/A
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – The Division has determined that the discrepancies during waste acceptance did not provide CHA with any economic benefit. Similar to violation 11, in most cases, the analyses were conducted incorrectly. Therefore, there is no personnel time that was saved. Also, the management of the waste would not have changed dramatically had the waste analysis been conducted properly.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$10,000.00

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 16

Violation Description: **Improperly Conducting Reactive Sulfide Screen**

1. Gravity Based Penalty: **\$7,800.00**
 - (a) Potential for Harm – **MAJOR**

The sulfide screen is required to determine if wastes are particularly reactive and therefore require additional management and segregation. The reagent used to run the sulfide screen was not formulated properly and therefore the sulfide screen was not accurate.
 - (b) Extent of Deviation – **MODERATE**

Only one incorrectly formulated reagent was documented being used. It is unknown how long the incorrect formulation was actively in use in the lab. However, the logbook shows the reagent in question was formulated on March 4, 2021, six months prior to the inspection.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – N/A
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – N/A
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – The Division has determined that the incorrect formulation did not provide CHA with any economic benefit.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$7,800.00

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 17

Violation Description: **Failure to Conduct Liquid Compatibility Test**

1. Gravity Based Penalty: **\$2,080.00**
 - (a) Potential for Harm – **MODERATE**
Compatibility tests are intended to ensure that reactions do not occur when different materials are mixed in tanks. There are other safeguards in place to protect against this and mitigate the potential effects of a reaction.
 - (b) Extent of Deviation – **MINOR**
Only one instance was documented.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – Decreased 30% – CHA notified the Division of the violation.
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – N/A
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – The Division has determined that failing to conduct the compatibility test did not provide CHA with any economic benefit.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$1,456.00

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 18

Violation Description: **Failure to Conduct Solid Compatibility Test**

1. Gravity Based Penalty: **\$2,080.00**
 - (a) Potential for Harm – **MODERATE**
Compatibility tests are intended to ensure that reactions do not occur when different materials are mixed in tanks. There are other safeguards in place to protect against this and mitigate the potential effects of a reaction.
 - (b) Extent of Deviation – **MINOR**
Only one instance was documented.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – Decreased 30% – CHA notified the Division of the violation.
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – N/A
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – The Division has determined that failing to conduct the compatibility test did not provide CHA with any economic benefit.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$1,456.00

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 19

Violation Description: **Failure to Assign Highest Documented PCB Concentration**

1. Gravity Based Penalty: **\$155.00**
 - (a) Potential for Harm – **MINOR**
The failure to assign PCB concentration did not result in any mismanagement of the waste. Additionally, PCB limits were not exceeded.
 - (b) Extent of Deviation – **MINOR**
Only one instance was documented.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – Decreased 30% – CHA notified the Division of the violation.
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – N/A
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – The Division has determined that failing to assign PCB values to wastes streams did not provide CHA with any economic benefit.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$108.50

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 20

Violation Description: **Failure to Maintain Proper Lab Logbooks**

1. Gravity Based Penalty: **\$1,560.00**
 - (a) Potential for Harm – **MODERATE**

Most of the information in the logbooks would allow for reagents to be traced and recreated. However, some expiration dates were overlooked. Additionally, the violation also potentially harms the foundational regulatory purpose of the hazardous waste program, which includes proper recordkeeping, accurate characterization, verification of results (quality control), and ultimately the proper management of hazardous waste.
 - (b) Extent of Deviation – **MINOR**

The errors were small, and while most lab books inspected contained multiple errors, the majority of the information required was present.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – N/A
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – N/A
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – The Division has determined that inaccuracies in the lab logbooks did not provide CHA with any economic benefit.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$1,560.00

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 21

Violation Description: **Laboratory Manager Completing QA Officer Reports**

1. Gravity Based Penalty: **\$260.00**
 - (a) Potential for Harm – **MINOR**
The reports in question contained the required information, but they were not completed by an independent person, the QA Officer.
 - (b) Extent of Deviation – **MINOR**
The report in question contained the required information, and it does appear that necessary corrective actions were taken to correct errors discovered.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – N/A
 - (b) Willfulness/Negligence – Increased 30% – The role of the Quality Assurance officer and the necessity for independent review of laboratory data was discussed thoroughly as part of a Class 1 Permit Modification (DSHW-2020-013927). This violation directly relates to and occurred after those discussions.
 - (c) History of Compliance or Noncompliance – N/A
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – The Division has determined that the laboratory manager completing the QA reports did not provide CHA with any economic benefit. As part of the permit modification discussed above, CHA was not planning on hiring additional personnel to fill the QA role, and as such, personnel costs would not have changed.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$338.00

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 22

Violation Description: **Failure to Complete Required Inspections**

1. Gravity Based Penalty: **\$155.00**
 - (a) Potential for Harm – **MINOR**
Personnel were consistently in the Shred Tower area, and many of the systems therein were being updated and calibrated during the first few months of its operation. The evacuation drill was conducted, but the documentation was unclear.
 - (b) Extent of Deviation – **MINOR**
Most of the required inspections were completed, and the deficiencies noted were immediately corrected.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – N/A
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – N/A
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – The Division has determined that the missed inspections did not provide CHA with any economic benefit.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$155.00

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 23

Violation Description: **Failure to Complete Required Trainings**

1. Gravity Based Penalty: **\$520.00**
 - (a) Potential for Harm – **MINOR**
Most of the courses noted seem to have been completed by the personnel outside of required timeframes. Additionally, the qualification program should ensure that employees receive on-the-job training before completing tasks without supervision.
 - (b) Extent of Deviation – **MODERATE**
Multiple employees were either late completing their training or missing documentation that required courses were completed.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – N/A
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – Increased 10% – This issue was cited in the previous NOV/SCO.
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – The Division has determined that the missed trainings did not provide CHA with any economic benefit.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$572.00

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 24

Violation Description: **Holding Rejected Waste Longer than 60 Days**

1. Gravity Based Penalty: **\$2,080.00**
 - (a) Potential for Harm – **MODERATE**
Rejected wastes are usually wastes that present some type of hazard that CHA is not prepared to manage. Having the rejected waste on site for an extended period of time increases the risks of mismanagement of these wastes.
 - (b) Extent of Deviation – **MINOR**
Most of the reject containers are managed in a timely manner.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – Decreased 30% – CHA notified the Division of the violation.
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – Increased 10% – This issue was cited in the previous NOV/SCO.
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – The Division has determined that holding rejected wastes longer than 60 days did not provide CHA with any economic benefit. The wastes were still ultimately shipped off site.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$1,664.00

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 25

Violation Description: **Failure to Conduct Required Calibrations**

1. Gravity Based Penalty: **\$155.00**
 - (a) Potential for Harm – **MINOR**
The missing glovebox LEL calibration was bookended by proper calibrations. The ABC O2 monitor was not in use at the time of the inspection. During the time frame specified, the shred tower was still coming online and was constantly being tweaked and calibrated.
 - (b) Extent of Deviation – **MINOR**
Most of the calibrations were conducted properly.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – N/A
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – N/A
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – The Division has determined that the missed calibrations did not provide CHA with any economic benefit.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$155.00

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 26

Violation Description: **Failure to Maintain Combustion Air Above 12,000 acfm**

1. Gravity Based Penalty: **\$155.00**
 - (a) Potential for Harm – **MINOR**
The length of time that there was inadequate air draw was minimal.
 - (b) Extent of Deviation – **MINOR**
The amount of air pulled was sufficient most of the time.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – N/A
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – Increased 10% – This issue was cited in the previous NOV/SCO.
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – The Division has determined that the inadequate combustion air flow did not provide CHA with any economic benefit.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$170.50

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 27

Violation Description: **Storing Waste Outside of a Container**

1. Gravity Based Penalty: **\$10,000.00**
 - (a) Potential for Harm – **MAJOR**
Large piles of unlabeled, uncontained waste present an outsized risk of exposure to both personnel and the environment. This violation also poses major harm to the foundational regulatory purpose of the hazardous waste program, which includes properly storing and containing hazardous waste to prevent harm to human health and the environment.
 - (b) Extent of Deviation – **MODERATE**
There was only one instance documented during the inspection, but the amount of uncontained waste was considerable.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – N/A
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – N/A
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – The Division has determined that the un-containerized waste did not provide CHA with any economic benefit. The facility maintains ample supply of containers and overpacks, and the waste was properly contained within a day of discovery.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$10,000.00

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 28

Violation Description: **Accumulating Onsite Waste for Longer than 90 Days**

1. Gravity Based Penalty: **\$155.00**
 - (a) Potential for Harm – **MINOR**
The waste in question was not mis-managed aside from exceeding the 90-day accumulation limit.
 - (b) Extent of Deviation – **MINOR**
Most of the waste generated onsite is managed properly.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – Decreased 30% – CHA notified the Division of the violation.
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – N/A
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – The Division has determined that the extended accumulation of waste did not provide CHA with any economic benefit.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$108.50

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 29

Violation Description: **Storing Site Generated Waste in Open, Unlabeled Containers**

1. Gravity Based Penalty: **\$2,600.00**
 - (a) Potential for Harm – **MODERATE**
Open containers increase the risk of exposure to hazardous waste.
 - (b) Extent of Deviation – **MINOR**
Some of the containers were completely open, while others were simply closed improperly. Also, most of the containers on-site were managed properly.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – N/A
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – N/A
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – The Division has determined that the open containers did not provide CHA with any economic benefit as they have proper containers and overpack containers on site.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$2,600.00

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 30

Violation Description: Shipping Hazardous Waste without a Manifest

1. Gravity Based Penalty: **\$1,560.00**
 - (a) Potential for Harm – **MODERATE**
Shipping wastes without a manifest and not properly addressing discrepancies could lead to lost wastes and mismanagement. Failing to use the manifest system also poses some harm to the foundational regulatory purpose of the hazardous waste program, which includes accurately tracking waste throughout its life. However, most manifests were completed correctly.
 - (b) Extent of Deviation – **MINOR**
Most waste shipments were completed with manifests were prepared, and discrepancies were appropriately noted.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – Decreased 30% – CHA notified the Division of the violation.
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – N/A
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – Additional \$20. The three containers in question would have been shipped on the same manifest. The economic benefit was evaluated and determined to be \$20 per manifest not filed.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$1,112.00

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 31

Violation Description: **Accumulating Hazardous Waste greater than One Year**

1. Gravity Based Penalty: **\$1,560.00**
 - (a) Potential for Harm – **MODERATE**
The waste in question was not mis-managed aside from exceeding the accumulation time. However, the one-year accumulation limit is a cornerstone principle of Land Disposal Restrictions, and violating it presents some institutional harm.
 - (b) Extent of Deviation – **MINOR**
Nearly all of the containers managed were disposed of within the required timeframe.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – Decreased 15% – CHA notified the Division of one out of two noted violations
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – N/A
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – The Division has determined that the extended accumulation of waste did not provide CHA with any economic benefit.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$1,326.00

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2205051

Violation Number 32

Violation Description: **Incinerating Metal Bearing Waste**

1. Gravity Based Penalty: **\$7,800.00**
 - (a) Potential for Harm – **MAJOR**
Feeding prohibited wastes would increase the emissions of metals. Additionally, the prohibition on incinerating metal wastes as a form of dilution is cornerstone principle of Land Disposal Restrictions, and violating it presents institutional harm.
 - (b) Extent of Deviation – **MINOR**
The amount of prohibited waste fed was minimal.
 - (c) Multiple/Multi-day – N/A
2. Adjustment Factors (if applicable)
 - (a) Good faith – Decreased 30% – CHA notified the Division of the violation.
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – Increased 10% – This issue was cited in the previous NOV/SCO.
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A
3. Economic Benefit – Economic benefit \$400. The Division estimates this to be the cost to transport the waste in question to a facility that could accept and treat it.
4. Recalculation of Penalty based on New Information – N/A

TOTAL: \$6,640.00

WASTE MANAGEMENT AND RADIATION CONTROL BOARD

Executive Summary

Proposed Stipulation and Consent Order

Utah State University

November 8, 2023

What is the issue before the Board?	This is a proposed Stipulation and Consent Order (SCO), No. 2207086 to resolve Notice of Violation and Compliance Order (NOV/CO) No. 2108087, issued to Utah State University (USU) on April 8, 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 8, 2021.</p> <p>The violations noted in the NOV/CO have been resolved.</p> <p>The SCO includes a total penalty of \$28,409.00. USU will pay a monetary penalty of \$2,840.90, while \$25,568.10 may be credited toward the total penalty of \$28,409.00 if USU completes a supplemental environmental project (SEP) related to the installation of solar panels on an existing parking garage at Utah State University. This SEP is expected to increase green electrical generation capacity by 40,460 kilowatt hours per year, which equates to approximately 53 pounds per year reduction in PM₁₀ indirect emissions associated with energy use. Fifty cents will be applied toward the credit amount for every SEP dollar spent by USU.</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 an action item before the Board.</p> <p>The proposed SCO was presented to the Board as an information item on October 12, 2023.</p>
What is the Division Director's recommendation?	The Director recommends approval of this SCO.
Where can more information be obtained?	<p>For technical information, please contact Judy Moran at (385) 499-0184. For legal information, please contact Elizabeth Burns at (385) 441-4789.</p> <p>The proposed SCO and supporting documentation were provided in the October 12, 2023 Board packet.</p>