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

Board members and interested persons may participate electronically/telephonically.

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

AGENDA

I. Call to Order and Roll Call.

II. Public Comments on Agenda Items.

III. Declarations of Conflict of Interest.

IV. Approval of the meeting minutes for the June 13, 2024 Board meeting .....Tab 1 (**Board Action Item**).

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

VI. Petroleum Storage Tanks Rules .....Tab 3

A. Approval from the Board to proceed with final adoption of proposed changes to Petroleum Storage Tanks Rules UAC R311 (**Board Action Item**).

VII. Administrative Rules .....Tab 4

A. Approval from the Board to proceed with formal rulemaking and public comment on proposed rule changes to the Utah Solid and Hazardous Waste Rules R315-301, 302, 303, 304, 305, 307, 308, 310, 311, 314, 315, 316, 317, 318 and new rules R315-321 and R315-322 of the Utah Administrative Code. This rulemaking is in response to legislation passed by the Utah Legislature during the 2019 General Session (**Board Action Item**).

(Over)

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B. Approval from the Board to proceed with final adoption of proposed changes to UAC R313-17 and UAC R313-24 of the Radiation Control Rules (**Board Action Item**).

VIII. Director's Report.

IX. Other Business.

A. Miscellaneous Information Items.
B. Scheduling of next Board meeting (September 12, 2024).

X. Adjourn.

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

Waste Management and Radiation Control Board Meeting Minutes
Utah Department of Environmental Quality
Multi-Agency State Office Building (Conf. Room #1015)
195 North 1950 West, SLC
June 13, 2024
1:30 p.m.

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

Board Members Participating Virtually: Dr. Richard Codell

Board Members Excused/Absent: Danielle Endres, Jeremy Hawk, Nathan Rich, Kim Shelley, Scott Wardle

UDEQ Staff Members Participating at Anchor Location: Brent Everett, Doug Hansen, Tom Ball, Brenden Catt, Tyler Hegburg, Larry Kellum, Jalynn Knudsen, Arlene Lovato, Kari Lundeen, Judy Moran, Bret Randall, Elisa Smith, Brian Speer, Otis Willoughby, Raymond Wixom

Others Attending at Anchor Location: Steve Gurr, Tim Orton

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.

Shane Whitney recused himself from voting on Board Agenda Item IX. Hazardous Waste, B. Clean Harbors Grassy Mountain, LLC request for a site-specific treatment variance.

Vern Rogers recused himself from voting on Board Agenda Item VIII. Low Level Radioactive Waste (Both A. & B.), Energy*Solutions'* request for site-specific treatment variances.

IV. Approval of the meeting minutes for the May 9, 2024, Board meeting (Board Action Item).

It was moved by Dennis Riding and seconded by Shane Whitney and UNANIMOUSLY CARRIED to approve the May 9, 2024 Board meeting minutes.

V. Petroleum Storage Tanks Update.

Brent Everett, Director, Division of Environmental Response and Remediation (DERR), informed the Board that the cash balance of the Petroleum Storage Tank (PST) Enterprise Fund for the end of April 2024, is $34,113,643.00. The cash balance at the end of May 2024 was $34,909,491.00. The DERR continues to watch the balance of the PST Enterprise Fund closely to ensure sufficient cash is available to cover qualified claims for releases. The negative equity balance is no longer an issue thanks in large part to the legislation sponsored by Representative Eliason in 2014.

Director Everett also informed the Board that the DERR was asked to present at the Revenue and Taxation Interim Committee on May 15th to discuss the PST Program and the Enterprise Fund in the context of the changes from the 2014 bill that was passed. Partnerships with the Board and other Stakeholders was also discussed. Director Everett thanked the Board for their help with rulemaking and program management.

The contract for the annual actuarial report has expired. The DERR is working with State Purchasing to obtain a new contract. Four vendors have responded and the DERR is reviewing their applications. The new contract will be for five years once it has been secured.

There were no additional comments or questions.

VI. Administrative Rules.

A. Proposed changes to the Utah Solid and Hazardous Waste Rules R315-321, Class VII Exploration and Production Waste Facility Requirements, and R315-322, Solid Waste Surface Impoundment Requirements, of the Utah Administrative Code (Information Item).

Brian Speer, Solid Waste Section Manager in the Division of Waste Management and Radiation Control (Division), reviewed the proposed rule changes and stated that in the coming months, the Division will be seeking approval from the Board to proceed with formal rulemaking and public comment on two new proposed rules, Utah Admin. Code (UAC) R315-321, Class VII Exploration and Production Waste Facility Requirements, and UAC R315-322, Solid Waste Surface Impoundment Requirements.

These rules will include requirements for wastes such as drilling muds, produced water, and other waste associated with the exploration, development, or production of oil, gas, or geothermal energy - referred to as E&P waste.

E&P waste has historically been regulated in Utah under rules made by the Board of Oil, Gas, and Mining according to its authorities in Part § 40-6-5 of the Utah Code. Because E&P waste was regulated by the Division of Oil, Gas, and Mining (DOGM), it was excluded from the definition of "solid waste" in the Utah Solid and Hazardous Waste Act until a definition change was made by House Bill 310 of the 2019 General Session of the Utah State Legislature. The definition change provides consistency with federal regulations.

Draft Rule UAC R315-321, Class VII Exploration and Production Waste Facility Requirements, is proposed to regulate E&P waste landfills. Draft Rule UAC R315-322, Solid Waste Surface Impoundment Requirements, is proposed to regulate the management of waste liquids from all industries disposed of into surface impoundments.

Mr. Speer stated that the Division has coordinated with the Division of Oil, Gas, and Mining to engage stakeholders in multiple meetings to seek their input as the transition of regulatory oversight occurs and reviewed stakeholders involvement and presented a Fact Sheet on the Regulatory Change History of Exploration & Production Waste. This Fact Sheet was also provided in the Board's June 13, 2024 Board's packet.

Mr. Speer briefly discussed the stakeholders' involvement in the process and informed the Board that additional information, including information specific to the stakeholders' involvement, can be found on the Division's E&P Waste website. The E&P Waste website can be found from any of the Department's web pages by searching for E&P Waste. The Division plans to share Draft Rule UAC R315-322, Solid Waste Surface Impoundments Requirements, with all municipal solid waste landfill owners and operators before formal rulemaking begins.

Dennis Riding asked what changes have been made to the rules in response to comments. Mr. Speer stated that the comments received mainly centered on clarification of the definitions and so the Division needed to provide further clarification. Mr. Speer clarified that not a lot of changes were added to the actual definitions, but as far as changes go, the Division anticipates adding a calculation to determine the dry weight of produced water and how a facility owner or operator might calculate that. Mr. Speer stated that other common comments received were in regard to training requirements and how a facility owner or operator might train employees to recognize very small quantity generator hazardous wastes that might be generated in the oil field that is not necessarily E&P waste. The training requirement was only in the surface impoundment rule and it is anticipated that will be added to the landfill facility rule as well, so that employees are trained to recognize those wastes.

Mr. Speer stated that a lot of questions regarding liners for these types of facilities for landfills that will manage E&P waste were also received and the Division has looked into the comparable federal regulations for this type of waste and the Division does not expect to require liners unless there is a close groundwater issue that needs to be resolved with a liner.

Chairman Mickelson stated that he assumes that these timelines presented are in conjunction with the DOGM regulations timelines and asked when Mr. Speer anticipates coming back to the Board on this matter. Mr. Speer stated that the Division anticipates coming back the Board next month with the revised rules and the hope is to have the Division rules be published before the DOGM rules are.

Director Hansen informed the Board that seeing the information provided on a fact sheet paper may not give the full perspective and scope of the effort that has gone into putting these rules together as this is a totally new program for the Division and so writing rules from scratch has taken a long time and commented that obviously the statute went into effect in 2019, and it has been almost five years later to finally get this effort completed.

Director Hansen informed the Board that these industries primarily located in the Uintah Basin have been operating for many years under the Division of Oil, Gas, and Mining regulations, and there needs to be a transition that makes sense, and there needs to be a set of expectations established that give clarity to the industry. Director Hansen further commented that the level of effort that has gone into the stakeholders outreach efforts by Mr. Speer and his team has been substantial.

Director Hansen further stated that because these are unique facilities, the Division anticipates roughly 17 to 20 new facilities will come online in the next year that the Division will fully regulate, and it is going to be a heavy lift to do that. Also, because these facilities are so unique, Division staff have met with the stakeholders individually to have conversations/meetings that lasted several hours to talk through the implications of the rules sand to receive their feedback. Hence, a lot of it is education and a lot of back and forth conversation about what this really means, and some valuable feedback has been received even before the informal comment period. Also, because of the diverse nature of the facilities, the Division has also addressed contradictory comments and so Division staff has been working very hard to find the appropriate middle ground for the regulations to give clear direction and clear perspective and expectations to the extent the Division is able to do that to create a level playing field that is protective of human health and environment as the Division promulgate these rules.

Director Hansen reiterated that this represents a Herculean effort to get to this point and is hopeful in the next few weeks as the Division wraps up the stakeholder outreach efforts, the Division will be able to address all the concerns as some of them will be as easy as helping people understand, some will be the status asked about making some changes to the rules, and some of them may be explaining why the Division cannot change the rules and why the middle ground is where we all need to land.

Mark Franc commented from the perspective of the regulated community as he has had the opportunity to attend several of the stakeholder meetings and to see some of the Herculean effort that has gone into this process. Mr. Franc commented that as he has watched less than similar efforts that have gone on in the process by other states, he really thinks the Division's efforts that have been put into this process makes Utah a leader in the solid waste, especially E&P waste industry to step out ahead and to have this effort and to have the input of all the regulated community and all these stakeholder meetings to actually listen and make the adjustments to the regulations based on those comments is commendable, and from the regulated community standpoint, he appreciates the effort of the Division to get regulations that the regulated community can live with and we can all work together to protect the environment and thanked the Division again.

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

Tom Ball, X-Ray and Technical Support Manger in the Division of Waste Management and Radiation Control (Division), reviewed the request for approval from the Board to approve final adoption of proposed changes to Utah Admin. Code (UAC) R315-309 and UAC R315-310. These changes are to correct rule and statutory references and language, clarify rule language, remove requirements that are no longer necessary, add some new requirements to the rules, and add language and requirements to rules as required by legislation passed by the Utah State Legislature.

At the Board meeting on April 11, 2024, the Board approved the proposed changes to UAC R315-309 and UAC R315-310 to be filed with the Office of Administrative Rules for publication in the *Utah State Bulletin*. The proposed changes were published in the May 1, 2024, issue of the *Utah State Bulletin*.

The public comment period for this rulemaking ended on May 31, 2024.
No comments were received.

This is a Board Action Item and the Director of the Division recommends the Board approve final adoption of the proposed changes to UAC R315-309 and UAC R315-310 as published in the May 1, 2024, *Utah State Bulletin* and set an effective date of June 17, 2024.

There were no additional comments or questions.

It was moved by Dennis Riding and seconded by Mark Franc and UNANIMOUSLY CARRIED to approve for final adoption the proposed changes to Utah Solid and Hazardous Waste Rules R315-309 and R315-310 of the Utah Administrative Code as published in the May 1, 2024, *Utah State Bulletin* and set an effective date of June 17, 2024.

C. Approval from the Board to proceed with formal rulemaking and public comment on proposed changes to R313-15, R313-22, R313-32, and R313-37, to incorporate federal regulatory changes made by the NRC to the federal radioactive materials regulations in 2021 (86 FR 43397, 47209, and 67839) and 2022 (87 FR 20693 and 68028). The changes are necessary to maintain regulatory compatibility with the NRC as required because Utah is an Agreement State with the NRC (Board Action Item).

Tom Ball, X-Ray and Technical Support Manger in the Division of Waste Management and Radiation Control (Division), reviewed the request for approval from the Board to proceed with formal rulemaking and public comment on proposed changes to R313-15, R313-22, R313-32, and R313-37, to incorporate federal regulatory changes made by the NRC to the federal radioactive materials regulations in 2021 and 2022. The changes are necessary to maintain regulatory compatibility with the NRC as required because Utah is an Agreement State with the NRC.

Mr. Ball informed the Board that in 2021 and 2022, the NRC amended its regulations making a host of miscellaneous corrections to their rules that include correcting mailing addresses, typographical errors, grammatical errors, punctuation, references, spelling, updating agency names, office titles, removing outdated reporting requirements, removing obsolete language, clarifying language, adding metric units, correcting formatting, updating an authority citation, updating internal procedures, and other miscellaneous changes.

These rules are incorporated by reference into our Utah rules and so therefore the changes made in the Utah rules are simply changing the date of incorporation that references those federal regulations.

As an Agreement State with the NRC for the radioactive materials program, Utah is required to maintain regulatory compatibility with the corresponding NRC radioactive materials regulations. The Division is adopting the changes that the NRC designated as necessary for an Agreement State to adopt to maintain regulatory compatibility with the NRC.

In addition to the proposed changes detailed above, the Division, at the request of the Governor's Office, is correcting typographical and formatting errors found in the rules.

This is a Board Action Item and the Director recommends the Board approve proceeding with formal rulemaking and public comment by publishing in the July 1, 2024, *Utah State Bulletin* the proposed changes to UAC R313-15, UAC R313-22, UAC R313-32 and UAC R313-37 and conducting a public comment period from July 1, 2024 to July 31, 2024.

There were no additional comments or questions.

It was moved by Vern Rogers and seconded by Dr. Codell and UNANIMOUSLY CARRIED to approve to proceed with formal rulemaking and public comment by publishing in the July 1, 2024, *Utah State Bulletin* and conducting a 30-day public comment period from July 1, 2024 to July 31, 2024, the proposed changes to R313-15, R313-22, R313-32, and R313-37 of the Utah Admin. Code.

VII. X- Ray Program.

A. Approval from the Board to proceed with final adoption of proposed changes to Radiation Control Rule R313-28 of the Utah Administrative Code to add the definition of "Healing Arts" (Board Action Item).

Tom Ball, X-Ray and Technical Support Manger in the Division of Waste Management and Radiation Control (Division), reviewed the request for approval from the Board to approve final adoption of proposed changes to UAC R313-28 of the Radiation Control Rule to add the definition of "Healing Arts."

At the Board meeting on April 11, 2024, the Board approved the proposed changes to UAC R313-28-20 to be filed with the Office of Administrative Rules for publication in the *Utah State Bulletin*. The proposed changes were published in the May 1, 2024, issue of the *Utah State Bulletin.*

The public comment period for this rulemaking ended on May 31, 2024. No comments were received.

This is a Board Action Item and the Director recommends the Board approve final adoption of the proposed changes to R313-28-20 of the Utah Administrative Code as published in the May 1, 2024, *Utah State Bulletin* and set an effective date of June 17, 2024.

There were no additional comments or questions.

It was moved by Shane Whitney and seconded by Dr. McIff and UNANIMOUSLY CARRIED to approve for final adoption the proposed changes to Radiation Control Rule R313-28 of the Utah Administrative Code to add the definition of "Healing Arts" as published in the May 1, 2024, *Utah State Bulletin* and set an effective date of June 17, 2024.

B. Approval of Mammography Imaging Medical Physicists (MIMPs) in accordance with UCA 19-3-103.1 (2)(c) of the Utah Code Annotated (Board Action Item).

Tom Ball, X-Ray and Technical Support Manger in the Division of Waste Management and Radiation Control (Division), reminded the Board that in the May 9, 2024 Board meeting, the Board approved the Executive Secretary to extend the expiration date for some certified Mammography Imaging Medical Physicists.

The Division has received 19 applications for recertification from individuals that are currently certified and one new application for certification as a Mammography Imaging Medical Physicists (MIMPs). These physicists perform radiation surveys

and evaluate the quality control programs of the facilities in Utah providing mammography examinations.

The June 13, 2024, Board's packet included a list of the individuals that have submitted applications, and the Division staff have reviewed the qualifications of each applicant, and they have determined that the applicants met the requirements detailed in R313-28-140 of the Utah Administrative Code.

This is a Board Action Item and the Director of the Division of Waste Management and Radiation Control recommends the Board issue certificates of approval to the applicants reviewed and presented.

There were no additional comments or questions.

It was moved by Dennis Riding and seconded by Dr. McIff and UNANIMOULSY CARRIED for the Board to approval the 19 applications for recertification from individuals that are currently certified and one new application for certification as Mammography Imaging Medical Physicists (MIMPs) in accordance with UCA 19-3-103.1 (2)(c) of the Utah Code Annotated.

VIII. Low-Level Radioactive Waste.

A. Energy*Solutions'* request for a site-specific treatment variance from the Utah Hazardous Waste Management Rules. Energy*Solutions* seeks authorization to receive an exemption from the treatment standards for uranium extraction process residues encased in cement for macroencapsulation (Board Action Item).

Tyler Hegburg, Environmental Scientist in the Low-Level Radioactive Material Section in the Division of Waste Management and Radiation Control, reviewed Energy*Solutions'* request for a site-specific treatment variance from the Utah Hazardous Waste Management Rules. Energy*Solutions* seeks authorization to receive an exemption from the treatment standards for uranium extraction process residues encased in cement for macroencapsulation.

Mr. Hegburg reminded the Board that during the May 9, 2024, Board meeting, Energy*Solutions* presented to the Board and requested a variance from the treatment standards in Utah Administrative Code (UAC) R315-268-40(a)(2) for the macro encapsulation of approximately 2,000 cubic feet of cemented uranium extraction process residuals that retain several hazardous waste codes including arsenic, barium, cadmium, chromium, lead, selenium, silver, 2,4-dinitrotoluene, hexachlorobenzene, hexachlorobutadiene and spent solvent waste codes F001, F002, and F005. This exemption is requested for the purposes of safety, security, and transportation of the radioactive waste.

The comment period began May 2, 2024, and ended May 31, 2024. No public comments were received.

The waste is generated from three different points during the uranium recovery processes at the generator's facility. This processes include an enriched uranium contaminated ash that has been thermally processed and then recovered through an organic solvent extraction process; oxide powders and dried sludges associated with highly enriched uranium-thorium fuels; and residue (sludge) from the bottom of salt baths used in the processing of uranium. The residual waste from each of these processes is collected in small cans (~ 2 ½ gallons each) and stored at the generator's facility. The process residuals within the cans have been characterized through a random sampling and analysis process.

This is an ongoing process where the generator has accumulated roughly 2,000 cubic feet of the 2 ½ gallons cans and continues to generate additional waste.

F-listed solvent codes within this waste are derived from rags that are burned in a furnace in order to recover the uranium present within them. None of the F-listed constituents were present above their respective treatment standard concentrations within the random characterization samples of the process residues. The random characterization samples were also analyzed for metals using the Toxicity Characteristic Leaching Procedure (TCLP). These samples detected elevated

concentrations of barium, cadmium, chromium, and lead. Based on these elevated metal concentrations, the characteristic waste codes D005, D006, D007, and D008 were applied to the process residues. Slightly elevated concentrations of arsenic, selenium, silver , 2,4-dinitrotoluene, hexachlorobenzene and hexachlorobutadiene were also detected in separate analyses. The residue may potentially contain these codes also.

The uranium content within the process residues is enriched. From a health and safety standpoint, the enrichment makes the waste more hazardous to employees managing the waste. Further, enriched material has increased security concerns and must be managed appropriately. To ensure the enriched uranium concentration limits required for worker safety, security, and transportation of this waste are met, appropriate packaging procedures were created and are currently being utilized at the generator's facility. These packaging procedures include repackaging the 2 ½ gallons cans into 16-gallon drums and filling the void spaces with cement; formal treatment for the elevated metals concentrations is not performed during this process. The generator has assessed other options, including treatment for the hazardous constituents; however, additional processing introduced unacceptable hazards from a health and safety and security viewpoint. Additionally, the waste within the cans is inherently safe from a criticality aspect and the generator concluded that it is unwise to perform extra processing that could potentially change this aspect. The waste material packaged within the 16-gallon monolithic forms is inherently safe and is in a form that will be shipped and received at the Energy*Solutions* Clive facility.

The characteristic hazardous waste codes associated with the process residues within the monolithic forms have concentration-based treatment standards based upon the leachability of the contaminants. The treatments of the monolithic forms would include shredding and mixing with stabilizing agents in a permitted mixer. Both of the acts of shredding and mixing could lead to the enriched uranium becoming airborne which could increase contamination to the environment and increase personnel exposure. Furthermore, the shredding process of the solidified uranium ash in a more accessible form of enriched uranium would increase potential security risks within handling the material.

Energy*Solutions'* proposal is to macroencapsulate the waste with a permitted process that would significantly decrease the leaching of the waste, require less handling and the keep the uranium monolith forms incased in an additional layer of material further restricting access the enriched uranium which creates that's a waste form that is protective of human health and the environment. The final disposal of the waste will occur in the mixed waste disposal cell within the Energy*Solutions* Mixed Waste Facility.

Additionally, this variance has been requested to the Board approximately 15 times previously, dating back to 2007.

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

Shane Whitney asked what the volume of the waste is. Mr. Hegburg replied that the variance request is for 2,000 cubic feet and then the other volume amount identified is how much the generator has accumulated through the process and the residual waste from each of these processes is collected in small cans (~ 2 ½ gallons each) and stored at the generator's facility. Mr. Whitney asked how many containers exist.

Steve Gurr, representative of Energy*Solutions*, reiterated the question of how many individual containers show up over the year period (variance request period). This current variance is requesting approximately 2,000 cubic feet, and reviewed previous variance requests and calculated and reviewed a few different figures regarding the volume amounts.

Vern Rogers asked if there are any differences between this current version of the variance request and the others submitted.

Mr. Hegburg stated that he cannot speak to the variance request prior to 2019, but for all the variance requests he has been involved with, this variance request has barely changed from what has been done in the past years since 2007.

Mark Franc commented that these variance requests have clearly become pretty routine and based on the information provided by Mr. Hegburg the method is as protective as the regulated treatment methods and stated that based on that information, he believes it is actually probably more protective to human health and the environment to reduce exposing anyone to the material. Mr. Franc further commented that this is fairly routine request, and it has been demonstrated with history that macroencapsulation is a valid and good treatment for a disposal facility operation, and he also wanted to make that comment although it is fairly routine, the reason it is routine is because it is a better disposal method.

It was moved by Shane Whitney and seconded by Mark Franc and UNANIMOUSLY CARRIED to approve Energy*Solutions'* LLC request for a site-specific treatment variance from the Utah Hazardous Waste Management Rules to receive an exemption from the treatment standards for uranium extraction process residues encased in cement for macroencapsulation. (Vern Rogers abstained from voting.)

B. Energy*Solutions'* request for a site-specific treatment variance from the Utah Hazardous Waste Management Rules. Energy*Solutions* seeks authorization to receive an exemption for the direct macroencapsulation treatment of lithium and lithium-ion batteries (Board Action Item).

Mr. Hegburg reminded the Board that during the May 9, 2024, Board meeting, Energy*Solutions* presented to the Board a request for a variance from the Utah Hazardous Waste Management Rules. Energy*Solutions* seeks authorization to receive a variance for lithium and lithium-ion batteries for direct macroencapsulation treatment of approximately 1,000 pounds of lithium and lithium-ion batteries.

The comment period began May 2, 2024, and ended May 31, 2024. No public comments were received.

Lithium and lithium-ion batteries typically exhibit the hazardous characteristics of ignitability and reactivity waste codes D001 and D003. Regulations in UAC R315-268-40 require that these characteristic hazards be deactivated to remove the characteristic prior to land disposal. As an alternative, UAC R315-268-45 allows hazardous debris to be treated using an immobilization technology (e.g., macroencapsulation). However, the U.S. Environmental Protection Agency (EPA) has ruled that intact batteries are containers and not considered debris.

Furthermore, the definition of macroencapsulation in UAC R315-268-42 states that "Macroencapsulation specifically does not include any material that would be classified as a tank or container."

For Energy*Solutions* to meet the regulatory standards described above, lithium and lithium-ion batteries would need to be shredded and mixed with chemicals to deactivate them or punctured (and then considered debris) to macroencapsulate them. Both activities (shredding and puncturing) severely agitate the waste and would expose the reactive portion of the waste to open air which could cause an adverse reaction or explosion. Although this type of waste management is possible, from a safety and health standpoint, it is inappropriate. Energy*Solutions* proposes to manage this waste by directly macroencapsulating the intact batteries.

Macroencapsulation is a permitted treatment technology that isolates hazardous waste from the environment, eliminating the potential for harmful reactions from exposure to the environment. Macroencapsulation requires less handling of the waste and creates a waste form for disposal that is protective of human health and the environment.

Energy*Solutions* has requested this variance previously in 2021, 2022, and 2023. In all instances, all three previous requests have been reviewed and approved by the Board.

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

Mr. Hegburg clarified that the batteries are radiologically contaminated.

There were no additional comments or questions.

It was moved by Mark Franc and seconded by Dennis Riding and UNANIMOUSLY CARRIED to approve Energy*Solutions* LLC request for a site-specific treatment variance from the Utah Hazardous Waste Management Rules to receive an exemption for the direct macroencapsulation treatment of lithium and lithium-ion batteries. (Vern Rogers abstained from voting.)

IX. Hazardous Waste Section.

A. Approval of Proposed Stipulation and Consent Order between the Director and Big West Oil LLC (Board Action Item).

Judy Moran, Environmental Scientist in Hazardous Waste Section in the Division of Waste Management and Radiation Control (Division), reviewed the approval of Proposed Stipulation and Consent Order No. 2207085 between the Director and Big West Oil LLC.

Ms. Moran stated that the Division is proposing to enter into a Stipulation and Consent Order issued to Big West Oil LLC (Big West) on January 5, 2024, to resolve Notice of Violation and Order of Compliance (NOV/OC) No. 2107073 issued to Big West on January 5, 2022.

The NOV/OC was based on information documented during an inspection at the refinery on July 7, 2021. As discussed during last month's Board meeting, the violations have been resolved.

The Proposed SCO includes a total penalty of $47,934.00, of which half ($23,967.00) will be deferred and waived by the Director if Big West complies with the terms in the SCO.

A notice for public comment was published in the *Salt Lake Tribune* on April 28, 2024, the *Deseret News* on April 24, 2024, and the *Davis Journal* on April 25, 2024.

The 30-day public comment period began on April 29, 2024, and ended on May 28, 2024. No comments were received.

The Director recommends the Board approve this Proposed SCO.

Mark Franc commented that this matter was discussed at length during the last meeting, and stated that the discussion was very informative and asked when the next inspection of this facility is scheduled and how often it will be inspected during this stipulation and consent order.

Ms. Moran stated that the inspection will take place before September 30th of this year, as it is on the Division's schedule for this EPA fiscal year. However, she has not scheduled it with the refinery yet. Ms. Moran stated that she usually gives about a weeks' notice when scheduling this type of inspection. Therefore, she is holding off until the Proposed SCO is finalized by the Board and then she will complete the inspection.

Mr. Franc asked if through the inspection is how the Division verifies compliance with the stipulation and consent order; i.e., verify that they qualify for that reduction in penalty. Ms. Moran stated that in this particular case, there are certain items that the facility has to complete that are in the stipulation and consent order, and that is what the deferment and waiver of the penalty hinges on. However, their compliance status is important as well. Ms. Moran stated that the Division routinely conducts refinery inspections every three to five years, and depending on the compliance history, they may occur more frequently and anticipates this facility to be inspected more frequently; however, she is not the one that makes that determination.

Mr. Franc stated that based on Ms. Moran comments, it seems like the compliance inspections may likely occur more often. Ms. Moran agreed.

It was moved by Dr. McIff and seconded by Dr. Codell and UNANIMOULSY CARRIED to approve the Proposed Stipulation and Consent Order No. 2207085 between the Director and Big West Oil LLC.

B. Clean Harbors Grassy Mountain, LLC request for a site-specific treatment variance from the Utah Hazardous Waste Management Rules to treat baghouse dust containing High Subcategory Mercury by stabilization instead of retort and recovery (Board Action Item).

Kari Lundeen, Environmental Scientist in the Hazardous Waste Section in the Division of Waste Management and Radiation Control, reviewed a site-specific treatment variance request as an action item for the Board.

Clean Harbors Grassy Mountain (Grassy Mountain) has requested an exemption from the treatment standards described in Utah Administrative Code R315-268-42. Grassy Mountain proposes to use stabilization to treat baghouse dust from the Clean Harbors Aragonite incinerator. The baghouse dust is a high mercury subcategory residue waste that would normally be sent for mercury retort and recovery. However, the baghouse dust carries waste treatment codes that the retort facilities are not permitted to accept. Grassy Mountain has completed stabilization treatability studies on this waste stream and demonstrated that they can successfully treat it to the Land Disposal Restriction standard for mercury of 0.025 mg/L TCLP. Grassy Mountain will confirm that the treated waste meets that standard prior to its final disposal in the landfill.

The Board has previously granted Grassy Mountain treatment variances for the same waste stream five separate times (2009, 2010, 2013, 2015, and 2017).

The 30-day comment period began May 2, 2024, and ended May 31, 2024.
No comments were received.

The variance request was presented to the Board as an information item during the May Board meeting. This is a Board Action Item and the Director recommends that the treatment variance be approved.

There were no additional comments or questions.

It was moved by Vern Rogers and seconded by Dennis Riding and UNANIMOULSY CARRIED to approve Clean Harbors Grassy Mountain, LLC request for a site-specific treatment variance from the Utah Hazardous Waste Management Rules to treat baghouse dust containing High Subcategory Mercury by stabilization instead of retort and recovery.
(Shane Whitney abstained from voting.)

X. Director's Report.

Director Hansen informed the Board that there is a new statute that came out of a previous legislative session that requires the Division to provide a report to the Utah Committee on Boards and Commissions on information regarding the Utah Waste Management and Radiation Control Board and its function, purpose, importance of the Board's existence, and the actions taken by the Board over the past five years.

Director Hansen stated that Director Everett spent time putting together the report with his assistance, and he wanted to share the information that was provided in the report. Director Hansen commented that the Board is heavily involved in what the Division does on a month-in-and-month out basis through the Board meetings that occur and wanted to state the business that this Board conducts is important work. As this Board is in involved managing some of the most difficult things that the State of Utah has to deal with in terms of environmental risk, and that makes up the body of the substance of what comes before this Board, and he wanted to share the context of the report numbers.

Director Hansen reviewed the report information that required data for the last five years on actions taken by the Board. Director Hansen stated that since January 1, 2019, the Board has promulgated 33 different rules. Director Hansen commented that is a significant number and reviewed the types of different rulemaking activities the Board is tasked to complete. Also, the report included 51 other approvals the Board has conducted during this time frame that included variances and exemptions from rules, approval of certain registrations, and approval of settlements with penalties exceeding $25,000.

Director Hansen stated he was impressed at just looking at the numbers of actions that this Board has to take action and accomplishes and thanked the Board for all their efforts as it takes to read all those actions and read all those rules and to ask thoughtful questions.

Director Hansen stated that he is not sure who will receive the report but wanted the Board to know that the individuals that prepared the report recognize the work that they are accomplishing and appreciate it and again thanked the Board on behalf of Director Everett and himself.

XI. Other Business.

A. Miscellaneous Information Items.

Director Everett mentioned that the public comment period for the PST rules approved in the May Board meeting is in process.

B. Scheduling of next Board meeting (July 11, 2024).

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

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

XII. Adjourn.

The meeting adjourned at 2:30 p.m.

PST STATISTICAL SUMMARY
June 1, 2023 -- May 31, 2024

PROGRAM

	June	July	August	September	October	November	December	January	February	March	April	May	(+/-) OR Total
Regulated Tanks	4,211	4,218	4,241	4,236	4,238	4,225	4,222	4,832	4,854	4,858	4,857	4,849	**638**
Tanks with Certificate of Compliance	4,110	4,122	4,117	4,111	4,117	4,116	4,126	4,507	4,529	4,547	4,565	4,577	**467**
Tanks without COC	101	96	124	125	121	109	96	325	325	311	292	272	**171**
Cumulative Facilitlies with Registered A Operators	1,282	1,289	1,288	1,282	1,283	1,278	1,282	1,280	1,280	1,284	1,284	1,277	**84.01%**
Cumulative Facilitlies with Registered B Operators	1,281	1,288	1,288	1,282	1,283	1,282	1,284	1,281	1,281	1,286	1,286	1,289	**84.80%**
New LUST Sites	6	5	5	13	5	4	4	5	6	6	5	6	**70**
Closed LUST Sites	4	7	8	14	6	9	7	3	9	6	9	24	**106**
Cumulative Closed LUST Sites	5549	5556	5571	5578	5586	5592	5598	5635	5642	5648	5653	5677	**128**

FINANCIAL

	June	July	August	September	October	November	December	January	February	March	April	May	(+/-)
Tanks on PST Fund	2,618	2,621	2,617	2,611	2,618	2,625	2,638	2,954	2,967	2,985	2,997	3,003	**385**
PST Claims (Cumulative)	723	724	724	725	725	725	724	726	726	727	727	726	**3**
Equity Balance	$2,514,097	$3,265,812	$4,455,502	$3,271,204	$3,527,017	$3,623,404	$3,538,013	$4,280,066	$4,638,541	$4,512,702	$4,893,606		**($2,514,097)**
Cash Balance	$30,685,747	$31,437,462	$32,627,152	$32,491,241	$32,747,054	$32,843,441	$32,758,050	$33,500,103	$33,858,578	$33,732,739	$34,113,643		**($30,685,747)**
Loans	0	1	0	0	0	0	0	0	0	0	0	0	**0**
Cumulative Loans	128	129	129	129	129	129	129	129	129	129	129	129	**1**
Cumulative Amount	$6,014,420	$6,213,705	$6,213,705	$6,213,705	$6,213,705	$6,213,705	$6,213,705	$6,213,705	$6,213,705	$6,213,705	$6,213,705	$6,213,705	**$199,285**
Defaults/Amount	0	0	0	0	0	0	0	0	0	3	3	0	**0**

	June	July	August	September	October	November	December	January	February	March	April	May	TOTAL
Speed Memos	102	62	103	69	122	105	38	82	65	84	84	113	**1,029**
Compliance Letters	17	4	7	7	16	9	5	9	5	7	2	3	**91**
Notice of Intent to Revoke	0	0	0	0	0	0	0	0	0	0	0	0	**0**
Orders	0	0	0	1	1	0	2	1	0	5	1	1	**12**

Summary of Proposed changes to R311, Petroleum Storage Tank Rules (2024)

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

Summary of the Proposed Changes:

R311-201. Petroleum Storage Tanks: Certification Programs and UST Operator Training (Nonsubstantive Change)

- R311-201-2(1): Fix an error by changing 19-6-402(7)(b) to the correct reference 19-6-402(7)(a).
  R311-201-2. Requirement for Certification
  (1) a certified PST consultant is required as specified in Subsection 19-6-402(7)(a[~~b~~]).

R311-203. Petroleum Storage Tanks: Technical Standards.

- R311-203-2(6): Change "not in service" to "out of service" for clarity.
  (6) The owner or operator of an APST that was [~~is~~] out of[~~not in~~] service before May 5, 2021,

- R311-203-2(6)(f): Move to its own section R311-203-2(8) where it fits better in context.
  [~~(f) must notify local emergency responders of a spill or overfill exceeding 25 gallons within 24 hours.~~]
  (8) The owner or operator of an APST must notify within 24 hours local emergency responders of a spill or overfill exceeding 25 gallons.

- R311-203-5(10): Require the Leak Detection and Testing Requirements for all APSTs and not just those on the Environmental Assurance Program (EAP). Insurance companies may have their own requirement but DERR wants to ensure that all APSTs meet certain requirements at a minimum.
  (10) Leak Detection and Testing Requirements for APSTs[~~using the EAP for financial responsibility~~]:

- R311-203-5(10)(b): Change rule to simplify the complexity of requiring spill prevention testing that works for USTs but doesn't always fit for APSTs.
  (b) spill prevention equipment associated with an APST must meet the standards set forth in International Fire Code (IFC) 2306.6.2.6 referenced in the Utah State Fire Code adopted pursuant to Section 15A-5-103[~~and be double-walled and monitored monthly;~~

~~or have an integrity test performed every three years. The test must meet the requirements of Subsection R311-203-5(2)~~].

R311-204. Petroleum Storage Tanks: Closure and Remediation. (Nonsubstantive Change)

- R311-204-3(3) add STI SP001 inspection criteria for smaller APSTs where API 653 does not apply. The intent of this rule was always meant to apply to all APSTs.
  (3) Any removed APST that is to be reused as an APST must be recertified by the manufacturer of the tank or undergo a tank inspection, conducted by a qualified contractor, using a nationally recognized standard such as STI SP001 or API 653.

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

- R311-206-3(1)(b)(i): Delete the requirement for only those on the EAP to meet certain leak detection requirements.
  ~~[(i) APSTs using the EAP for financial responsibility, the owner or operator may meet the requirements outlined in Subsection R311-206-4(6).]~~

- R311-206-4(6): Delete this subpart that lists the leak detection requirements for APSTs on the EAP because they can already be found in R311-203-5(10).
  ~~(6) For a facility with an APST using the EAP for financial responsibility, the director shall issue a certificate of compliance to an owner or operator for individual APSTs, if:~~
  ~~(a) before July 1, 2026, the owner or operator:~~
  ~~(i) documents compliance with spill prevention equipment requirements and submits a spill prevention equipment test; and~~
  ~~(ii) documents compliance with applicable leak detection and testing requirements outlined in Section R311-203-5.~~
  ~~(b) on or after July 1, 2026, the owner or operator:~~
  ~~(i) if applicable, documents compliance with cathodic protection requirements and submits a cathodic protection test, if required by Subsection R311-203-5(10)(d) indicating that the cathodic protection system is functioning properly;~~
  ~~(ii) documents compliance with overfill prevention requirements and submits an overfill prevention equipment inspection per Subsection R311-203-5(10)(e);~~
  ~~(iii) documents compliance with automatic line leak detector and submits an automatic line leak detector test, if required by Subsection R311-203-5(10)(f), indicating that each individual automatic line leak detector is functioning properly; and~~
  ~~(iv) documents compliance with APST secondary containment requirements as outlined in International Fire Code 2306.5 & 5704.2.10 referenced in the Utah State Fire Code pursuant to Section 15A-5-103.~~

- R311-206-8(3) Change wording to clarify meaning
  (3) For APSTs not in service after May 5, 2021, the director shall authorize the placement of a delivery prohibition tag [~~to be placed on the APST~~] as soon as practicable[~~after the determination that the APST was not in service after May 5, 2021~~].

- R311-206-8(4): This change allows a delivery prohibition tag to be placed on a PST that fails a tightness test or has evidence of a leak.

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

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

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

State of Utah
Administrative Rule Analysis
Revised May 2023

NONSUBSTANTIVE CHANGE		
Title No. - Rule No. - Section No.		
Rule or Section Number:	**R311-201**	**Filing ID: Office Use Only**

Agency Information

1. Department:	Environmental Quality	
Agency:	Environmental Response and Remediation	
Room number:		
Building:	Multi Agency State Office Building	
Street address:	195 North 1950 West	
City, state and zip:	Salt Lake City, Utah 84116	
Mailing address:	P.O. Box 144840	
City, state and zip:	Salt Lake City, Utah 84114-4840	
Contact persons:		
Name:	**Phone:**	**Email:**
David Wilson	385-251-0893	djwilson@utah.gov
Morgan Atkinson	801-979-2512	mpatkinson@utah.gov

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

General Information

2. Rule or section catchline:

Petroleum Storage Tanks: Certification Programs and UST Operator Training

3. Reason for the change:

This rule change fixes an incorrect reference to a statute in rule.

4. Summary of the change:

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

Agency Authorization Information

To the agency: The Office of Administrative Rules is responsible for setting the effective date of nonsubstantive changes (see Section R15-4-6). The agency does NOT file a notice of effective date.

Agency head or designee and title:	Brent Everett, Director	**Date:**	05/09/2024

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

Definitions are found in Rule R311-200.

R311-201-2. Requirement for Certification.

(1) a certified PST consultant is required as specified in Subsection 19-6-402(7)([~~b~~]a).
(a) no person shall provide or contract to provide the following services without having certification to conduct these activities:
(i) provide information, opinions, or advice relating to PST release management;
(ii) abatement;
(iii) investigation;
(iv) corrective action; or
(v) evaluation for a fee, or in connection with the services for which a fee is charged.
(A) except as outlined in Subsection R311-204-5(2); and
(B) except for releases from a hazardous substance PST system, as defined in 40 CFR 280.10.
(b) a certified PST consultant must:
(i) make pertinent project management decisions;
(ii) ensure all aspects of work related to PSTs containing petroleum are performed in an appropriate manner; and

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

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

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

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

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

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

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

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

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

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

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

(c) a PST owner or operator may:

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

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

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

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

(ii) interstitial tests of tanks and piping; and

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

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

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

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

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

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

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

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

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

R311-201-3. Eligibility for Certification.

(1) Certified PST consultant.

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

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

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

(A) state and federal statutes;

(B) rules and regulations;

(C) environmental media sampling; and

(D) department policies.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) UST inspector.

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

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

(A) corrosion;

(B) geology;

(C) hydrology;

(D) tank handling;

(E) tank testing;

(F) product piping testing;

(G) disposal;

(H) safety;

(I) sampling methodology;

(J) state site inspection protocol;

(K) state and federal statutes; and

(L) Utah PST rules and regulations.

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

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

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

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

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

(3) UST tester.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Certified sampler.

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

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

(A) chain of custody;
(B) decontamination;
(C) EPA testing methods;
(D) environmental media sampling protocol;
(E) preservation of samples during transportation;
(F) coordination with Utah certified laboratories; and
(G) state and federal statutes, rules, and regulations.
(ii) renewal certification training will be determined by the director.
(A) the applicant shall provide documentation of training with the application.
(b) certification examination. An applicant must successfully pass a certification examination administered under the direction of the director.
(i) the director shall determine the content of the initial and subsequent examinations, based on the training requirements as outlined in Subsection R311-201-3(4)(a), and the standards and criteria against which the applicant will be evaluated.
(ii) the director may offer a renewal certification examination that is less comprehensive than the initial certification examination.
(5) UST installer.
(a) financial assurance. An applicant or the applicant's employer must have insurance, surety bonds, liquid company assets, or other appropriate kinds of financial assurance which covers PST installation and which, in combination, represents an unencumbered value of not less than the largest PST installation contract performed by the applicant or the applicant's employer, as appropriate, during the previous two years, or $250,000, whichever is greater.
(i) evidence of financial assurance shall be provided with the application.
(ii) an applicant who uses their employer's financial assurance must also provide evidence of their employer's approval of the application.
(b) training. For initial certification, an applicant must have successfully completed a PST installer training course or equivalent within the six-month period before the application.
(i) the training course must be approved by the director, and shall include instruction in the following areas:
(A) tank installation;
(B) pre-installation tank testing;
(C) product piping testing;
(D) excavation;
(E) anchoring;
(F) backfilling;
(G) secondary containment;
(H) leak detection methods;
(I) piping;
(J) electrical; and
(K) state and federal statutes, rules, and regulations.
(ii) the applicant must provide documentation of training with the application.
(c) experience. Each applicant must provide with their application a sworn statement or other evidence that they have actively participated in a minimum of three PST installations.
(d) certification examination. An applicant must successfully pass a certification examination administered under the direction of the director.
(i) the director shall determine the content of the initial and renewal examinations, based on the training requirements as outlined in Subsection R311-201-3(5)(b), and the standards and criteria against which the applicant will be evaluated.
(ii) the director may offer a renewal certification examination that is less comprehensive than the initial certification examination.
(6) UST remover.
(a) financial assurance. An applicant or the applicant's employer must have insurance, surety bonds, liquid company assets or other appropriate kinds of financial assurance which covers PST removal and which, in combination, represents an unencumbered value of not less than the largest PST removal contract performed by the applicant or the applicant's employer, as appropriate, during the previous two years, or $250,000, whichever is greater.
(i) evidence of financial assurance shall be provided with the application.
(ii) an applicant who uses their employer's financial assurance must also provide evidence of their employer's approval of the application.
(b) training. For initial certification, an applicant must have successfully completed a PST remover approved training course or equivalent within the six-month period before the application.
(i) the training course must be approved by the director and shall include instruction in the following areas:
(A) tank removal;
(B) tank removal safety practices; and
(C) state and federal statutes, rules, and regulations.
(ii) the applicant must provide documentation of training with the application.
(c) experience. Each applicant must provide with their application a sworn statement or other evidence that they have actively participated in a minimum of three PST removals.
(d) certification examination. An applicant must successfully pass a certification examination administered under the direction of the director.
(i) the director shall determine the content of the initial and renewal examinations, based on the training requirements as outlined in Subsection R311-201-3(6)(b), and the standards and criteria against which the applicant will be evaluated.
(ii) the director may offer a renewal certification examination that is less comprehensive than the initial certification examination.

R311-201-4. Application for Certification.
(1) Any individual may apply for certification by paying any applicable fees and by submitting an application to the director to demonstrate that the applicant
(a) meets applicable eligibility requirements specified in Section R311-201-3; and

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

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

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

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

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

R311-201-5. Renewal.

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

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

(b) paying any applicable fees; and

(c) passing a certification renewal examination.

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

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

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

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

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

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

R311-201-6. Standards of Performance.

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

(a) display the certificate upon request;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) pre-installation tank testing;

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

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

(D) vent and product piping assembly;

(E) fill tube attachment;

(F) installation of tank manholes;

(H) secondary containment construction; and

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

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

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

(A) removal of soil adjacent to the tank;

(B) disassembly of pipe;

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

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

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

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

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

R311-201-8. Inactivation of Certification.

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

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

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

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

R311-201-9. Revocation of Certification.

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

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

R311-201-10. Reciprocity.

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) have a general knowledge of UST systems;

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

(iii) ensure that yearly UST fees are paid;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(vi) ensure that spill prevention, overfill prevention, and corrosion protection requirements are met;
(vii) be on site for facility compliance inspections, or designate another individual to be on site for inspections;
(viii) ensure that suspected releases are reported according to the requirements of 40 CFR 280.50; and
(ix) ensure that Class C operators are trained and registered, and are on site during operating hours.
(8) Any individual providing services as a third-party Class B operator must be trained and registered in accordance with Subsection R311-201-12(10) and must:
(a) be certified in accordance with Rule R311-201 as:
(i) a UST tester; or
(ii) a UST installer as either a general installer or a service or repair technician; or
(b) meet the training requirements of a certified UST inspector and document comprehensive or general liability insurance with limits of $250,000 minimum per occurrence.
(9) The Class C operator is an employee and is generally the first line of response to events indicating emergency conditions. A Class C operator must:
(a) be present at the facility at all times during normal operating hours;
(b) monitor product transfer operations according to 40 CFR 280.30(a), to ensure that spills and overfills do not occur;
(c) properly respond to alarms, spills, and overfills;
(d) notify Class A operators, Class B operators, or both, and appropriate emergency responders when necessary; and
(e) act in response to emergencies and other situations caused by spills or releases from an UST system that pose an immediate danger or threat to the public or to the environment, and that require immediate action.
(10) Operator training and registration.
(a) training and testing.
(i) applicants for Class A and B operator registration must successfully complete an approved operator training course within the six-month period before application.
(ii) the training course must be approved by the director, and shall include instruction in the following:
(A) notification;
(B) temporary and permanent closure;
(C) installation permitting;
(D) UST requirements of the 2005 Energy Policy Act;
(E) Class A, B, and C operator responsibilities;
(F) spill prevention;
(G) overfill prevention;
(H) UST release detection;
(I) corrosion protection;
(J) recordkeeping requirements;
(K) emergency response;
(L) product compatibility;
(M) Utah PST rules and regulations;
(N) UST financial responsibility; and
(O) delivery prohibition.
(iii) applicants for Class A and B operator registration must successfully pass a registration examination authorized by the director.
(A) the director shall determine the content of the examination.
(iv) an individual applying for Class A or B operator registration may be exempted from meeting the requirements of Subsections R311-201-12(10)(a)(i) and R311-201-12(10)(a)(iii) by completing the following within the six-month period before application:
(A) successfully passing a nationally recognized UST operator examination approved by the director; and
(B) successfully passing a Utah PST rules and regulations examination authorized by the director.
(v) the director shall determine the content of the examination.
(vi) Class C operators shall receive instruction in product transfer procedures, emergency response, and initial response to alarms and releases.
(b) registration application.
(i) applicants for Class A and B operator registration must:
(A) submit a registration application to the director;
(B) document proper training; and
(C) pay any applicable fees.
(ii) Class C operators shall be designated by a Class B operator.
(iii) the Class B operator must maintain a list identifying the Class C operators for each PST facility. The list must identify:
(A) each Class C operator;
(B) the date of training; and
(C) the trainer.
(iv) identification on the list serves as the operator registration for Class C operators.
(v) a registered Class A or B operator may act as a Class C operator by meeting the training and registration requirements for a Class C operator.
(vi) Class A and B registration shall be effective for a period of three years, and shall not lapse or become inactive if the registered operator leaves the employment of the company under which the registration was obtained.
(c) renewal of registration.
(i) Class A and B operators shall apply for renewal of registration not more than six months before the expiration of the registration by:
(A) submitting a completed application form;
(B) paying any applicable fees; and
(C) documenting successful completion of any re-training required by Subsection R311-201-12(10)(d).

(ii) if the director determines that the operator meets the requirements for registration, the director shall renew the applicant's registration for a period equal to the initial registration.

(iii) any applicant for renewal who has a registration that has been expired for more than two years before submitting a renewal application must successfully satisfy the training and examination requirements for initial registration under Subsection R311-201-12(10)(a) before receiving the renewal registration.

(d) re-training.

(i) a Class A operator is subject to re-training requirements if any facility for which the Class A operator has oversight is found to be out of compliance due to:

(A) lapsing of certificate of compliance;

(B) failure to provide acceptable financial responsibility; or

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

(ii) a Class B operator is subject to re-training requirements if a facility for which the Class B operator has oversight is found to be out of compliance due to:

(A) failure to document compliance, as determined by the Technical Compliance Rate;

(I) Technical Compliance Rate is determined using the EPA "UST and LUST Performance Definitions as of October 2018" and incorporated by reference.

(B) failure to perform UST operator inspections required by Section R311-203-7; or

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

(iii) to be re-trained, Class A and Class B operators must successfully complete the appropriate Class A or B operator training course and examination, or must complete an equivalent re-training course and examination approved by the director.

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

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

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

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

(11) Reciprocity.

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

(i) submits a completed application form;

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

(iii) submits payment of any applicable registration fees.

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

KEY: hazardous substances, administrative proceedings, underground storage tanks, petroleum storage tanks, revocation procedures
Date of Last Change: 2024[~~July 15, 2022~~]
Notice of Continuation: March 8, 2022
Authorizing, and Implemented or Interpreted Law: 19-1-301; 19-6-105; 19-6-402; 19-6-403; 63G-4-102; 63G-4-201 through 205; 63G-4-503

State of Utah
Administrative Rule Analysis
Revised May 2023

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Title No. - Rule No. - Section No.		
Rule or Section Number:	**R311-203**	**Filing ID: Office Use Only**

Agency Information

1. Department:	Environmental Quality	
Agency:	Environmental Response and Remediation	
Room number:		
Building:	Multi Agency State Office Building	
Street address:	195 North 1950 West	
City, state and zip:	Salt Lake City, Utah 84116	
Mailing address:	P.O. Box 144840	
City, state and zip:	Salt Lake City, Utah 84114-4840	
Contact persons:		
Name:	**Phone:**	**Email:**
David Wilson	385-251-0893	djwilson@utah.gov
Morgan Atkinson	801-979-2512	mpatikson@utah.gov

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

General Information

2. Rule or section catchline:

Petroleum Storage Tanks: Technical Standards.

3. Purpose of the new rule or reason for the change:

The purpose of this rule change is to allow the agency to continue issuing certificates of compliance (COC) to all regulated facilities, as well as to clarify some wording and make the rule more concise and easier for the regulated community to understand. Leak detection and testing requirements are essential for the agency to continue issuing COCs for Aboveground Petroleum Storage Tanks (APSTs) and brings parity with the existing requirements for Underground Storage Tanks (USTs) and APSTs participating in the Environmental Assurance Program (EAP). Additionally, the agency has found some of the spill prevention testing requirements are not applicable for all regulated PSTs, so the requirement is removed where not applicable.

4. Summary of the new rule or change:

Clarifying R311-203-2(6) by changing “is not in service” to “was out of service”. Moving R311-203-2(6)(f) to its own section R311-203-2(8) where it fits better in context. Removing the wording from R311-203-5(10) that requires certain Leak Detection and Testing for only APSTs using EAP as their financial responsibility mechanism and now will apply to all APSTs. Modify wording in R311-203-5(10)(b) to remove the periodic testing requirement for spill prevention equipment on APSTs. The spill prevention standard in International Fire Code is still applicable.

Fiscal Information

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

A) State budget:

R311-203-5(10): There is no anticipated cost or savings to the state budget because all state PST facilities are required by statute to be on the EAP and meet these leak detection standards.

R311-203-5(10)(b): There is a direct fiscal benefit to state owned facilities with APSTs which will not be required to test their spill buckets every 3 years. There are approximately 30 facilities with APSTs owned by state government that participate in the EAP. Each site has an average of 3 APSTs each that will be affected by this rule. The approximate total benefit for all these facilities combined is $9,000 every 3 years. This estimate was reached using the average contractor cost for a facility with 3 APSTs being $300 every 3 years.

Other changes will have no anticipated cost or savings to the state budget, because they just fix minor errors and clarify certain

rules.

B) Local governments:

R311-203-5(10) This proposed rule change is not expected to have any fiscal impacts on local government revenues or expenditures because Insurance Companies offering an alternate form of Financial Assurance will likely required them to meet similar leak detection standards.
The fiscal cost to meet the requirements for July 1, 2026 is inestimable due to variation in type of APST facilities which may require upgrades to meet these standards that are already required to meet International Fire Code as adopted pursuant to Utah State Fire Code Section 15A-5-103.

R311-203-5(10)(b): There is a direct fiscal benefit to local government owned facilities with APSTs which will not be required to test their spill buckets every 3 years. There are approximately 22 facilities with APSTs owned by local governments that participate in the EAP. Each site has an average of 3 APSTs each that will be affected by this rule. The approximate total benefit for all these facilities combined is $6,600 every 3 years. This estimate was reached using the average contractor cost for a facility with 3 APSTs being $300 every 3 years.

Other changes will have no anticipated cost or savings to the local government's budget, because they just fix minor errors and clarify certain rules.

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

R311-203-5(10) This proposed rule change is not expected to have any fiscal impacts on small businesses revenues or expenditures because Insurance Companies offering an alternate form of Financial Assurance will likely required them to meet similar leak detection standards.
The fiscal cost to meet the requirements for July 1, 2026 is inestimable due to variation in type of APST facilities which may require upgrades to meet these standards which are already required to meet International Fire Code as adopted pursuant to Utah State Fire Code Section 15A-5-103.

R311-203-5(10)(b): There is a direct fiscal benefit to small business owned facilities with APSTs which will not be required to test their spill buckets every 3 years. There are approximately 100 facilities with APSTs owned by small businesses that participate in the EAP. Each site has an average of 3 APSTs each that will be affected by this rule. The approximate total benefit for all these facilities combined is $30,000 every 3 years. This estimate was reached using the average contractor cost for a facility with 3 APSTs being $300 every 3 years.

Other changes will have no anticipated cost or savings to the small businesses budget, because they just fix minor errors and clarify certain rules.

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

R311-203-5(10) This proposed rule change is not expected to have any fiscal impacts on non-small businesses revenues or expenditures because Insurance Companies offering an alternate form of Financial Assurance will likely required them to meet similar leak detection standards.
The fiscal cost to meet the requirements for July 1, 2026 is inestimable due to variation in type of APST facilities which may require upgrades to meet these standards which are already required to meet International Fire Code as adopted pursuant to Utah State Fire Code Section 15A-5-103.

R311-203-5(10)(b): There is a direct fiscal benefit to non-small business owned facilities with APSTs which will not be required to test their spill buckets every 3 years. There are approximately 80 facilities with APSTs owned by non-small business that participate in the EAP. Each site has an average of 3 APSTs each that will be affected by this rule. The approximate total benefit for all these facilities combined is $18,000 every 3 years. This estimate was reached using the average contractor cost for a facility with 3 APSTs being $300 every 3 years.

Other changes will have no anticipated cost or savings to the non-small businesses budget, because they just fix minor errors and clarify certain rules.

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

These rule changes are not expected to have any fiscal impacts on other persons because the rule changes will not apply to these entities.

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

R311-203-5(10)(b): Benefit to affected persons for not requiring spill bucket (SB) tests is $100/SB every 3 years.

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

Regulatory Impact Table			
Fiscal Cost	**FY2024**	**FY2025**	**FY2026**

State Government	$0	$0	$0
Local Governments	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Cost	**$0**	**$0**	**$0**
Fiscal Benefits	**FY2024**	**FY2025**	**FY2026**
State Government	$0	$0	$9,000
Local Governments	$0	$0	$6,600
Small Businesses	$0	$0	$30,000
Non-Small Businesses	$0	$0	$18,000
Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$63,600**
Net Fiscal Benefits	**$0**	**$0**	**$63,600**

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

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

Citation Information

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

Section 19-6-105	Section 19-6-403	Section 19-6-408

Incorporations by Reference Information

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

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

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

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

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

Public Notice Information

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

A) Comments will be accepted until:	07/01/2024

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

Date (mm/dd/yyyy)**:**	**Time** (hh:mm AM/PM)**:**	**Place** (physical address or URL)**:**
06/10/2024	02:00 PM	Multi Agency State Office Building 195 N. 1950 W. Salt Lake City, Utah 84116

		Room 1015

To the agency: If more space is needed for a physical address or URL, refer readers to Box 4 in General Information. If more than two hearings will take place, continue to add rows.

9. This rule change MAY become effective on:	07/12/2024

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

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 63G-3-302, 63G-3-303, and 63G-3-402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.

Agency head or designee and title:	Brent Everett, Director	**Date:**	05/09/2025

R311. Environmental Quality, Environmental Response and Remediation.
R311-203. Petroleum Storage Tanks: Technical Standards.
R311-203-1. Definitions.

Definitions are found in Rule R311-200.

R311-203-2. Notification.

(1) The owner or operator of an UST must notify the director when:
(a) new USTs are brought into use;
(b) the owner or operator changes;
(c) changes are made to the tank or piping system; and
(d) release detection, corrosion protection, or spill or overfill prevention systems are installed, changed, or upgraded.
(2) Notifications must be submitted on the current approved notification form.
(3) Notifications submitted to meet the requirements of Subsection R311-203-2(1) shall be submitted within 30 days of the completion of the work or the change of ownership.
(4) To satisfy the requirement of Section 19-6-407 the certified installer shall:
(a) complete the appropriate section of the form to be submitted by the owner or operator, and ensure that the notification form is submitted by the owner or operator within 30 days of completion of the installation; or
(b) provide separate notification to the director within 60 days of the completion of the installation.
(5) The owner or operator of an APST that is in service on or after May 5, 2021, must notify the director according to the requirements of Subsection 19-6-407(2).
(6) The owner or operator of an APST that [~~is~~]was [~~not in~~]out of service before May 5, 2021,
(a) must notify the director according to the requirements of Subsection 19-6-407(2)(a)(i);
(b) is subject to delivery prohibition requirements in Section R311-206-8;
(c) is subject to closure requirements under Subsections 19-6-407(2)(a)(iii) and (iv) and Section R311-204-2;
(d) must demonstrate the tank has been emptied of any regulated substance to the lowest discharge point on the tank;
(e) is subject to release reporting requirements as outlined in Subsection 19-6-407(2)(a)(iv); and
[~~(f) must notify local emergency responders of a spill or overfill exceeding 25 gallons within 24 hours.~~]
(7) The owner or operator of an APST that is not in service before May 5, 2021, is not subject to the requirements of Subsection 19-6-407(2)(c) and Section 19-6-412 unless the owner or operator elects to bring the APST back in service.
(8) The owner or operator of an APST must notify within 24 hours local emergency responders of a spill or overfill exceeding 25 gallons.

R311-203-3. New Installations, Permits.

(1) Certified UST installers must notify the director at least ten business days, or another time period approved by the director, before commencing any of the following activities:
(a) the installation of a full UST system or tank only;
(b) the installation of underground product piping for one or more tanks at a facility, separate from the installation of one or more tanks at a facility;
(c) the internal lining of a previously-existing tank;
(d) the installation of a cathodic protection system on one or more previously-existing tanks at a facility;
(e) the installation of a bladder in a tank;
(f) any retro-fit, replacement, or installation that requires the cutting of a manway into the tank;
(g) the installation of a spill prevention or overfill prevention device;
(h) the installation of a leak detection monitoring system; or
(i) the installation of a containment sump or under-dispenser containment.
(2) The UST installation company must submit to the director an UST installation permit fee of $200 when any of the activities listed in Subsections R311-203-3(1)(a) through R311-203-3(1)(f) is performed on an UST system that has not qualified for a certificate of compliance before the commencement of the work.
(3) The fees assessed under Subsection 19-6-411(2)(a)(i) will be determined based on the number of full UST installations performed by the installation company in the 12 months previous to the fee due date.
(a) installations for which the fee assessed under Subsections 19-6-411(2)(a)(ii) and R311-203-3(3) is charged shall count toward the total installations for the 12-month period.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) the PST registration fee has been paid.

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

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

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

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

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

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

R311-203-5. PST Testing Requirements.

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

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

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

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

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

(c) another form approved by the director.

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

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

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

(c) another form approved by the director.

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

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

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

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

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

(c) test results in volts or millivolts;

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

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

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

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

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

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

(b) measured leak rate;

(c) test duration;

(d) product level for tank tests;

(e) pressure used for pressure tests;

(f) type of test; and

(g) test equipment used.

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

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

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

(c) another form approved by the director.

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

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

(b) another form approved by the director.

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

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

(b) another form approved by the director.

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

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

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

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

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

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

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

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

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

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

(1) Secondary containment for tanks and piping.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Under-dispenser containment.

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

(b) the under-dispenser containment must:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

R311-203-7. Operator Inspections.

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

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

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

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

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

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

R311-203-8. Unattended Facilities.

(1) An UST facility that:

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

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

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

KEY: fees, hazardous substances, petroleum, underground storage tanks
Date of Last Change: 2024[~~September 27, 2022~~]
Notice of Continuation: March 8, 2022
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-403; 19-6-408

State of Utah
Administrative Rule Analysis
Revised May 2023

NONSUBSTANTIVE CHANGE		
Title No. - Rule No. - Section No.		
Rule or Section Number:	**R311-204**	**Filing ID: Office Use Only**

Agency Information

1. Department:	Environmental Quality	
Agency:	Environmental Response and Remediation	
Room number:		
Building:	Multi Agency State Office Building	
Street address:	195 North 1950 West	
City, state and zip:	Salt Lake City, Uta 84116	
Mailing address:	P.O. Box 144849	
City, state and zip:	Salt Lake City, Utah 84114-4840	
Contact persons:		
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David Wilson	385-251-0893	djwilson@utah.gov
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Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:

Petroleum Storage Tanks: Closure and Remediation.

3. Reason for the change:

The reason for this rule change was to suggest an additional standard for inspecting APSTs since the referenced standard (API 653) applies to larger APSTs. The intent of this rule was always meant to apply to all APSTs.

4. Summary of the change:

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

Agency Authorization Information

To the agency: The Office of Administrative Rules is responsible for setting the effective date of nonsubstantive changes (see Section R15-4-6). The agency does NOT file a notice of effective date.

Agency head or designee and title:	Brent Everett, Director	**Date:**	05/09/2024

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

Definitions are found in Rule R311-200.

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

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

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

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

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

(a) product removal;

(b) sludge disposal;

(c) vapor purging or inerting;

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

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

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

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

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

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

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

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

R311-204-3. Disposal.

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

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

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

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

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

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

R311-204-4. Closure Notice.

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

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

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

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

(i) scale;
(ii) north arrow;
(iii) streets;
(iv) property boundaries;
(v) building structures;
(vi) utilities;
(vii) PST system location;
(viii) location of any contamination observed or suspected during sampling;
(ix) location and volume of any stockpiled soil;
(x) the extent of the excavation zone; and
(xi) any other relevant features.

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

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

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

R311-204-5. Remediation.

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

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

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

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

KEY: hazardous substances, petroleum, underground storage tanks
Date of Last Change: 2024[~~July 15, 2022~~]
Notice of Continuation: March 8, 2022
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-402; 19-6-403

State of Utah
Administrative Rule Analysis
Revised May 2023

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Title No. - Rule No. - Section No.		
Rule or Section Number:	**RR311-206**	**Filing ID: Office Use Only**

Agency Information

1. Department:	Environmental Quality	
Agency:	Environmental Response and Remediation	
Room number:		
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Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

Petroleum Storage Tanks: Certificate of Compliance and Financial Assurance Mechanisms

3. Purpose of the new rule or reason for the change:

The purpose of this rule change is to allow the agency to require leak detection at all regulated facilities, as well as clarifying the instances when the agency is allowed to place a delivery prohibition tag on a tank. Adding leak detection requirements for Aboveground Petroleum Storage Tanks (APSTs) brings parity with the existing requirements for Underground Storage Tanks (USTs) and APSTs participating in the Environmental Assurance Program (EAP). The previous wording of the delivery prohibition section of the rule did not allow for delivery prohibition in certain circumstances which tank manufacturers and other states' storage tank programs recommend delivery prohibition. The new wording fixes this issue.

4. Summary of the new rule or change:

R311-206-3(1)(b)(i): Expands the leak detection requirement to all APST facilities and not only those on the Environmental Assurance Program (EAP). R311-206-4(6): Delete the subpart that lists the leak detection requirements for APSTs on the EAP because they can already be found in R311-203-5(10). Add a subpart R311-206-8(4) authorizing the placement of a delivery prohibition tag on PSTs that fail a PST Test or show physical evidence of a release of product. Simplify the confusing wording of R311-206-8(3).

Fiscal Information

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

A) State budget:

R311-206-3(1)(b)(i) and R311-206-4(6): This rule change is not expected to have any fiscal impacts on state revenues or expenditures because all state PST facilities are required by statute to participate in the Environmental Assurance Program (EAP).

R311-206-8(4): The cost to state budget is inestimable because the likelihood or frequency of a release from PSTs is unknown.

Other changes will have no anticipated cost or savings to the state budget because they just fix minor errors and clarify certain rules.

B) Local governments:

R311-206-3(1)(b)(i) and R311-206-4(6): This rule change is expected to have an inestimable fiscal cost to local government owned facilities with APSTs that do not participate in the EAP. Insurance companies who provide financial Assurance (FA) will likely require these facilities to meet certain leak detection standards that are similar or stricter than those set forth in rule.

R311-206-8(4): The cost to local governments is inestimable because the likelihood or frequency of a release from PSTs is unknown.

Other changes will have no anticipated cost or savings to local governments because they just fix minor errors and clarify certain rules.

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

R311-206-3(1)(b)(i) and R311-206-4(6): This rule change is expected to have an inestimable fiscal cost to small businesses owned facilities with APSTs that do not participate in the EAP. Insurance companies who provide financial Assurance (FA) will likely require these facilities to meet certain leak detection standards that are similar or stricter than those set forth in rule.

R311-206-8(4): The cost to small businesses budget is inestimable because the likelihood or frequency of a release from PSTs is unknown

Other changes will have no anticipated cost or savings to small business because they just fix minor errors and clarify certain rules.

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

R311-206-3(1)(b)(i) and R311-206-4(6): This rule change is expected to have an inestimable fiscal cost to non-small businesses owned facilities with APSTs that do not participate in the EAP. Insurance companies who provide financial Assurance (FA) will likely require these facilities to meet certain leak detection standards that are similar or stricter than those set forth in rule.

R311-206-8(4): The cost to non-small businesses is inestimable because the likelihood or frequency of a release from PSTs is unknown

Other changes will have no anticipated cost or savings to non-small businesses because they just fix minor errors and clarify certain rules.

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

These rule changes are not expected to have any fiscal impacts on other persons because the rule changes will not apply to these entities.

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

Any costs to affected persons that choose to not participate in the EAP is inestimable. Insurance companies providing FA will likely require these facilities to meet certain leak detection standards that are similar or stricter than those set forth in rule. The cost to affected person for delivery prohibition to a PST is inestimable because the likelihood or frequency of a release from PSTs is unknown.

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

Regulatory Impact Table

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

Other Persons	$0	$0	$0
Total Fiscal Benefits	**$0**	**$0**	**$0**
Net Fiscal Benefits	**$0**	**$0**	**$0**

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

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

Citation Information

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

19-6-105	19-6-403	19-6-410.5
19-6-428		

Incorporations by Reference Information

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

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

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

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

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

Public Notice Information

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

A) Comments will be accepted until:	07/01/2024

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

Date (mm/dd/yyyy)**:**	**Time** (hh:mm AM/PM)**:**	**Place** (physical address or URL)**:**
06/10/2024	2:00 PM	Multi Agency State Office Building 195 N. 1950 W. Salt Lake City, Utah 84116 Room 1015

To the agency: If more space is needed for a physical address or URL, refer readers to Box 4 in General Information. If more than two hearings will take place, continue to add rows.

9. This rule change MAY become effective on:	07/12/2024

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

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 63G-3-302, 63G-3-303, and 63G-3-402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.

Agency head or designee and title:	Brent Everett, Director	**Date:**	05/08/2024

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

Definitions are found in Rule R311-200.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Auditing of PST facility throughput records.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) release reporting;

(b) abatement;

(c) investigation;

(d) corrective action; or

(e) other measures to bring the release site under control.

R311-206-8. Delivery Prohibition.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) meeting the following requirements:

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

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

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

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

(2) prorata refunds will not be given.

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

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

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

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

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

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

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

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

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

R311-206-11. Environmental Assurance Fee Rebate.

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

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

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

(a) calculated on a facility basis;

(b) valid for the calendar year;

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

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

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

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

(b) meet one of the following:

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

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

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

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

(b) meet one of the following:

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

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

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

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

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

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

KEY: petroleum, underground storage tanks
Date of Last Change: 2024[~~April 14, 2023~~]
Notice of Continuation: March 8, 2022
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-403; 19-6-410.5; 19-6-428

WASTE MANAGEMENT AND RADIATION CONTROL BOARD
Executive Summary
Proposed Rule Changes
UAC R315-301, 302, 303, 304, 305, 307, 308, 310, 311, 314, 315, 316, 317, 318, 321, 322
July 11, 2024

What is the issue before the Board?	Approval from the Board to proceed with formal rulemaking and public comment on proposed changes to R315-301, 302, 303, 304, 305, 307, 308, 310, 311, 314, 315, 316, 317, 318, and new rules R315-321 and R315-322. This rulemaking is in response to legislation passed by the Utah Legislature during the 2019 General Session.
What is the historical background or context for this issue?	During the 2019 General Session of the Utah Legislature House Bill 310 was passed. This bill makes waste generated during the exploration, development, or production of oil, gas, or geothermal energy a solid waste and moves role of regulating that waste to the Division of Waste Management and Radiation Control. Previously these wastes were regulated under rules made by the Board of Oil, Gas, and Mining. During the June 13, 2024 Board Meeting, the Division gave the Board a presentation on the two new rules, R315-321 and R315-322. Rule R315-321 will regulate Class VII Exploration and Production waste landfills. Rule R315-322 will regulate the management of waste liquids from all industries, including waste liquids from exploration, development, or production of oil, gas, or geothermal energy, disposed of into surface impoundments. Included with this executive summary are copies of these new rules. Amendments are being made to existing rules R315-301, 302, 303, 304, 305, 307, 308, 310, 311, 314, 315, 316, 317, and 318 to coordinate these rules with the two new rules. Many of the changes made are simply changing rule numbers to include the two new rules or changing rule number citations that need to change due to rule numbering changes caused by the amendments. Other changes include adding Class VII and solid waste surface impoundment facilities to the types of facilities regulated by the solid waste rules, clarifying in various rules which rules apply to which types of facilities, adding definitions and clarifying language. Included with this executive summary are copies of the rules being amended. Additionally, the Division is fixing typographical and formatting errors found in the rules as requested by the Governor's Office.

DSHW-2024-007025
DSHW-2024-007026
DSHW-2024-007027

What is the governing statutory or regulatory citation?	The Board is authorized under Subsection 19-6-105 to make rules that establish minimum standards for protection of human health and the environment for the treatment and disposal of solid waste. The rule changes also meet existing DEQ and state rulemaking procedures.
Is Board action required?	Yes. Board approval is necessary to begin the formal rulemaking process by filing the appropriate documents with the Office of Administrative Rules for publishing the proposed rule changes in the Utah State Bulletin and conducting a public comment period.
What is the Division Director's recommendation?	The Director recommends the Board approve proceeding with formal rulemaking and public comment by publishing in the August 1, 2024, Utah State Bulletin the proposed changes to R315-301, R315-302, R315-303, R315-304, R315-305, R315-307, R315-308, R315-310, R315-311, R315-314, R315-315, R315-316, R315-317, R315-318, R315-321, and R31-322 and conducting a public comment period from August 1, 2024 to September 3, 2024..
Where can more information be obtained?	Please contact Tom Ball by email at tball@utah.gov or by phone at 385-454-5574 or Brian Speer by email at bspeer@utah.gov or by phone at 385-499-0010.

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-301. Solid Waste Authority, Definitions, and General Requirements.
R315-301-1. Authority and Purpose.

[~~The Solid Waste Permitting and Management~~]Rules R315-301 through R315-322 are promulgated under the authority of the Solid and Hazardous Waste Act, Chapter 6 of Title 19, to protect human health, to prevent land, air and water pollution, and to conserve the state's natural, economic and energy resources by setting minimum performance standards for the proper management of solid wastes originating from residences, commercial, agricultural, and other sources.

R315-301-2. Definitions.

Terms used in Rules R315-301 through R315-32[~~0~~]2 are defined in Sections 19-1-103, 19-6-102, and 19-6-803. In addition, the following definitions apply to Rules R315-301 through R315-32[~~0~~]2.

(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~~]earlier permission and without restrictions within the physical capacities of available facilities.

(3) "Aquifer" means a geological formation, group of formations, or portion of a formation that contains sufficiently saturated permeable material to yield usable quantities of 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 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 incorporated by reference, that if dry, can be crumbled, pulverized, or reduced to powder by hand pressure.

(6) "Background concentration" means the concentration of a contaminant in 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)(b)(iii) and is permitted by the 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~~]4)(e)(v).

(8) "Class II Landfill" means a non commercial landfill or a landfill that is permitted by the 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~~]4)(e)(v).

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

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

(a) construction or demolition waste;

(b) yard waste;

(c) inert waste;

(d) dead animals, as approved by the 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 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 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 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~~]The owner or operator of a Class VI Landfill may not receive for disposal:

(i) hazardous waste;

(ii) construction 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 each requirement 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) "Class VII Facility" means a nonhazardous solid waste management facility that is permitted by the director for the treatment or disposal of exploration and production waste.

([~~13~~]14) "Closed facility" means any solid waste management facility that no longer receives solid waste and has completed an approved closure plan, and any landfill [~~on which~~]where an approved final cover has been installed.

([~~14~~]15) "Commercial solid waste" means any type of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding household waste and industrial wastes.

([~~15~~]16) "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 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~~]17) "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 part of each day of a consecutive seven day period, to a state [~~in which~~]where the end product or compost can be handled, stored, or applied to the land without adversely affecting human health or the environment.

([~~17~~]18) "Construction 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) 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 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~~]19) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water or soil that is a result of human activity.

([~~19~~]20) "Displaced" or "displacement" means the relative movement of any two sides of a fault measured in any direction.

([~~20~~]21) "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~~]22) "Energy recovery" means the recovery of energy in a usable form from incineration, burning, or any other means of using the heat of combustion of solid waste that involves high temperature, above 1,200 degrees Fahrenheit, processing.

([~~22~~]23) "Existing facility" means any facility that has:

(a) a current valid solid waste permit or other valid approval issued under Rules R315-301 through R315-32[~~0~~]2 by the director[~~:~~] and

~~(b)~~ received final approval to accept waste as required by Subsection R315-301-5(1)[~~.~~]; or

(b) had an active valid permit or other valid approval from the Division of Oil, Gas, and Mining on October 1, 2023, for an oil and gas exploration and production waste management facility.

([~~23~~]24) "Expansion of a solid waste disposal facility" means any lateral expansion beyond the property boundaries outlined in the permit application for the facility's current operating permit[~~under which the facility is operating~~].

([~~24~~]25) "Facility" means 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, for example, one or more incinerators, landfills, container storage areas, or combinations of these.

(26) "Exploration and production waste" or "E&P waste" means solid wastes that are intrinsically derived from primary field operations associated with the exploration, development, or production of crude oil or natural gas, but only to the extent the waste is exempt from hazardous waste regulation according to Subsection R315-261-4(b)(5).

([~~25~~]27) "Floodplain" means the land that has been or may be covered by flood water [~~which~~]that has a 1% chance of occurring any given year. The flood is also referred to as the base flood or 100-year flood.

([~~26~~]28) "Free liquids" means liquids [~~which~~]that readily separate from the solid portion of a waste under ambient temperature and pressure or as determined by Test Method 9095B, Paint Filter Liquids Test, as provided in EPA Publication SW-846, "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" available at the US EPA Hazardous Waste Test Methods/SW-846 website.

([~~27~~]29) "Garbage" means discarded animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food, and of a character and proportion as to be capable of attracting or providing food for vectors. Garbage does not include sewage and sewage sludge.

([~~28~~]30) "Groundwater" means subsurface water that is in the zone of saturation including perched groundwater.

([~~29~~]31) "Groundwater quality standard" means a standard for maximum allowable contamination in groundwater as set by Section R315-308-4.

([~~30~~]32) "Hazardous waste" means hazardous waste as defined by Subsection 19-6-102(9) and Section R315-261-3.

(33) "High liquid waste" means nonhazardous solid waste that is liquid in its natural state, contains free liquids, or is expected to liquefy or vaporize under the circumstances that it is managed or disposed.

([~~31~~]34) "Holocene fault" means a fracture or zone of fractures [~~along which~~]where 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~~]about 11,000 years ago, to the present.

([~~32~~]35) "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~~]36) "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~~]37) "Incineration" means a controlled thermal process that physically or chemically alters[~~by which~~] solid wastes [~~are physically or chemically altered~~]into 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~~]38) "Industrial solid waste" means any solid waste generated at a manufacturing or other industrial facility that is not a hazardous waste or that is a hazardous waste from a very small quantity generator of hazardous waste, as defined by Section R315-260-10, generated by an industrial facility. Industrial solid waste includes waste from the following industries or resulting from the following manufacturing processes and associated activities:

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

([~~36~~]39) "Industrial solid waste facility" means a facility that receives only industrial solid waste from on-site or off-site sources for disposal.

([~~37~~]40) "Inert waste" means noncombustible, nonhazardous solid wastes that keep their physical and chemical structure under expected conditions of disposal, including wastes that exhibit resistance to biological or chemical change.

([~~38~~]41) "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~~]42) "Landtreatment, 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 biodegradation.

([~~40~~]43) "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 facility operating permit[~~, under which the facility is operating~~]; or

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

([~~41~~]44) "Lateral hydraulically equivalent point" means a point located hydraulically equal to a facility and in the groundwater with similar geochemistry such that the groundwater, at that point, has not been affected by the facility.

([~~42~~]45) "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 the waste.

([~~43~~]46) "Lithified earth material" means any rock, including any naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that formed by crystallization of magma or by induration of loose sediments. This term does not include human made materials, such as fill, concrete and asphalt, or unconsolidated earth materials, soil, or regolith lying at or near the earth surface.

([~~44~~]47) "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~~]48) "Maximum horizontal acceleration in lithified earth material" means the maximum expected horizontal acceleration depicted on a seismic hazard map, with a 90% or greater probability that the acceleration will not be exceeded in 250 years, or the maximum expected horizontal acceleration based on-site specific seismic risk assessment.

([~~46~~]49) "Municipal solid waste landfill" means a permitted nonhazardous solid waste landfill that may receive municipal solid waste for disposal.

([~~47~~]50) "Municipal solid waste" means household waste, nonhazardous commercial solid waste, and nonhazardous sludge.

([~~48~~]51) "New facility" means any facility that:

(a) has applied for a permit or other valid approval issued under Rules R315-301 through R315-32[~~0~~]2 by the director;

(b) did not have a permit or other valid approval issued under Rules R315-301 through R315-32[~~0~~]2 or an active valid permit or other valid approval from the Division of Oil, Gas, and Mining on October 1, 2023 , for an oil and gas exploration and production waste management facility [~~at the time of~~]when the application was submitted; and

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

(52) "Non-commercial solid waste management facility" means a facility that is not a “commercial nonhazardous solid waste treatment, storage, or disposal facility” as defined by Subsection 19-6-102(3).

([~~49~~]53) "Off-site" means any [~~site which~~]area that is [~~not~~]outside of the same or geographically continuous property that is defined as "on-site".

([~~50~~]54) "On-site" means the geographically contiguous property that may be divided by public or private right-of-way, where the entrance and exit between the properties is at a cross roads intersection, and access is by crossing, as opposed to going along the right-of-way. Property separated by a private right-of-way, which the site owner or operator controls[~~,~~] and [~~to which~~]the public [~~does~~]cannot [~~have~~]access, is also considered on-site property.

([~~51~~]55) "Operator" means the person, as defined by Subsection 19-1-103(4), responsible for the overall operation of a facility.

([~~52~~]56) "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~~]57) "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~~]that contain these substances.

([~~54~~]58) "Permeability" means the [~~ease with which~~]ability of a porous material to allow[~~s~~] 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 x 10^{-7} cm/sec or less may be considered impermeable.

([~~55~~]59) "Permit" means the plan approval as required by Subsection 19-6-108(3)(a), or equivalent control document issued by the director to implement the requirements of the Utah Solid and Hazardous Waste Act.

([~~56~~]60) "Pile" means any noncontainerized accumulation of solid waste that is used for treatment or storage.

([~~57~~]61) "Poor foundation conditions" means those areas where features exist [~~which~~]that indicate that a natural or human induced event may result in inadequate foundation support for the structural components of a landfill unit.

([~~58~~]62) "Putrescible waste" means solid waste [~~which~~]that 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~~]63) "Qualified groundwater scientist" means a scientist or engineer who has received a baccalaureate or post graduate degree in the natural sciences or engineering and has sufficient training and experience in 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 judgments regarding groundwater monitoring, contaminant fate and transport, and corrective action.

([~~60~~]64) "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 a volume 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 regulatory designation 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, to generate the heat necessary to manufacture a product.

([~~61~~]65) "Recyclable materials" means those solid wastes that can be recovered from or otherwise diverted from the waste stream for recycling, such as metals, paper, glass, and plastics.

([~~62~~]66) "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~~]67) "Run-on" means any rainwater, leachate, or other liquid that drains over land onto the active area of a facility.

([~~64~~]68) "Scavenging" means the unauthorized removal of solid waste from a facility.

([~~65~~]69) "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~~]70) "Septage" means a semisolid consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from septic tank systems.

([~~67~~]71) "Sharps" means any discarded or contaminated article or instrument from a health facility that may cause puncture or cuts. This waste may include needles, syringes, blades, needles with attached tubing, pipettes, pasteurs, broken glass, and blood vials.

([~~68~~]72) "Sludge" means any solid, semisolid, or liquid waste, including grit and screenings generated from:

(a) municipal, commercial, or industrial wastewater treatment plants;

(b) water supply treatment plants;

(c) car wash facilities;

(d) air pollution control facilities; or

(e) any other waste having similar characteristics.

([~~69~~]73) "Solid waste disposal facility" means a landfill, incinerator, [~~or~~]landtreatment [~~area~~]facility, or a solid waste surface impoundment.

([~~70~~]74) "Solid waste incinerator facility" means a facility [~~at which~~]that receives solid waste[~~ is received~~] from on-site or off-site sources and [~~is subjected~~]subjects the waste to the incineration process. An incinerator facility that incinerates solid waste for any reason, including energy recovery, volume reduction, or to make it non infectious, is a solid waste incinerator facility and is subject to Rules R315-301 through R315-32[~~0~~]2.

(75) "Solid waste surface impoundment" means a solid waste management facility or any part of a solid waste management facility that is a natural topographic depression, human-made excavation, or a diked area that is designed to hold nonhazardous high liquid waste, leachate, or sludge, to dispose of, reduce the volume of, or otherwise separate or treat the waste. A solid waste surface impoundment does not include a surface impoundment that is:

(a) operated in connection with a permitted underground injection well;

(b) regulated under the authority of the Board of Oil, Gas, and Mining;

(c) used to manage storm water or is otherwise regulated under the authority of the Water Quality Board;

(d) regulated under Section R315-319-53; or

(e) a hazardous waste surface impoundment regulated under Rules R315-264 or R315-265.

([~~71~~]76) "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 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 shall be handled and disposed according to the requirements of Rule R315-315.

([~~72~~]77) Reserved.

([~~73~~]78) "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]~~that ~~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~~]79) "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~~]80) "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~~]81) "Treated wood" means any wood item that has been treated with the following or compounds containing the following:

(a) creosote or related compounds;

(b) arsenic;

(c) chromium; or

(d) copper.

([~~78~~]82) "Twenty-five year storm" means a 24-hour storm of 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~~]83) "Unit" or "Solid Waste Management Unit" means a distinct operational storage, treatment, or disposal area at a solid waste management facility that contains the features to make it capable of performing its intended function and of being closed as a separate entity.

([~~80~~]84) "Unit boundary" means a vertical surface located at the hydraulically downgradient limit of a landfill unit or other solid waste disposal facility unit [~~which~~]that is required to monitor groundwater. This vertical surface extends down into the groundwater.

([~~81~~]85) "Unstable area" means a location that is susceptible to natural or human induced events or forces capable of impairing the integrity of the [~~landfill~~]structural components of a solid waste management facility that are intended to prevent[~~responsible for preventing~~] releases from [~~a~~]the facility. Unstable areas can include poor foundation conditions, areas susceptible to mass movements, and karst terrains.

([~~82~~]86) "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~~]87) "Vector" means a living animal including insect or other arthropod [~~which~~]that is capable of transmitting an infectious disease from one organism to another.

([~~84~~]88) "Washout" means the carrying away of solid waste by waters of a base or 100-year flood.

([~~85~~]89) "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~~]90) "Wetlands" means those areas that are inundated or saturated by surface or 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~~]91) "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.

R315-301-3. Owner Responsibilities for Solid Waste.

The owner, operator or occupant of any premises or business establishment shall be responsible for the management and disposal of [~~all~~]any solid waste generated or accumulated by the owner, operator, or occupant of the property in compliance with [~~the Utah Solid Waste Permitting and Management~~]Rules R315-301 through R315-322 and the Utah Solid and Hazardous Waste Act.

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~~]that is in compliance with the requirements of Rules R315-301 through R315-32[~~0~~]2 and other applicable rules.

(2) If any solid waste is disposed in a manner not in compliance with the requirements of Rules R315-301 through R315-32[~~0~~]2, 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 from the director and shall meet each of the following:

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

(ii) shall immediately meet the operational monitoring and waste handling criteria of Rules R315-301 through R315-32[~~0~~]2; and

(iii) shall follow the requirements of 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 R315-32[~~0~~]2, or other applicable rules, may be subject to enforcement action in addition to meeting the requirements of Subsection R315-301-4(2).

(4) 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 R315-32[~~0~~]2 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.

R315-301-5. Permit Required.

(1) No solid waste [~~disposal~~]management facility shall be established, operated, maintained, or expanded until the owner or operator of [~~such~~]the facility has [~~obtained~~]gotten a permit from the [~~D~~]director and has received a letter of approval from the [~~D~~]director to accept waste.

(2) The owner or operator of a solid waste [~~disposal~~]management facility shall operate the facility in accordance with the conditions of the permit and otherwise follow the permit.

(3) In areas where no public or [~~duly~~]licensed disposal service is available, the on-site disposal, by burial, of on-site generated nonhazardous solid waste from a single family farm or a single family ranch does not require a permit.

KEY: self-inspections, solid waste management, solid waste disposal
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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) Class VII landfills as specified in Rule R315-321;

(v) solid waste surface impoundments as specified in Rule R315-322;

([~~iv~~]vi) piles that are to be closed as landfills; and

([~~v~~]vii) 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. 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 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 that could compromise the structural integrity of the facility.

(ii) Holocene Fault Areas. A new facility or a lateral expansion of an existing facility may not be located within 200 feet of a Holocene fault unless the owner or operator demonstrates to the 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 may not be located in seismic impact zones unless the owner or operator demonstrates to the satisfaction of the director that 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 shall demonstrate to the satisfaction of the 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 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~~]artificial 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 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 director that:

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

(ii) the unit will not violate any applicable state water quality standard or [~~s~~]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 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 [~~s~~]Section 404 of the Clean Water Act or applicable state wetlands laws, steps have been taken to 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 any appropriate and practicable compensatory mitigation actions, for example, restoration of existing degraded wetlands or creation of [~~man-made~~]artificial wetlands; and

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

(e) Groundwater.

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

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

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

(C) If the aquifer beneath a landfill contains groundwater 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 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 each unit of the proposed facility is constructed with a composite liner or other equivalent design approved by the director:

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

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

(C) The applicant for the proposed facility will make the demonstration of 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 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 director, of hydraulic conductivity and other information necessary to determine the 250 days groundwater travel distance.

(vi) Groundwater Alternative.

(A) Subject to the 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 groundwater has a TDS of 10,000 mg/l or greater, or where there is an extreme depth to groundwater, or where there is a natural impermeable barrier above the groundwater, or where there is no groundwater, the director may approve, on a site specific basis, an alternative groundwater monitoring system at the facility or may wave the groundwater monitoring requirement. If groundwater monitoring is waved the owner or operator shall make the demonstration stated in Subsection R315-308-1(3).

(B) A facility that has a groundwater monitoring alternative approved under Subsection R315-302-1(2)(e)(vi) is subject to the groundwater quality standards specified in Subsection R315-303-2(1) and the approved alternative shall be revoked by the director if the operation of the facility impacts 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 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 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 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) Each application for an exemption 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 required by Section R315-310-1 to get a permit, shall meet the applicable requirements of Section R315-302-2 or portions of Section R315-302-2 as required by Rule R315-304, R315-305, R315-306, R315-307, R315-312, R315-313, [~~or~~]R315-314, R315-321, or R315-322.

(b) Any facility 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 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) Before the acceptance of waste or recyclable material or beginning operations at the facility, the owner or operator of a recycling or composting facility shall receive notice from the 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 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) Before the acceptance of waste or beginning operations at the facility, the owner or operator of a transfer station facility shall receive notice from the 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 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 director or the director's authorized representative. The facility 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 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 groundwater is contaminated;

(f) contingency plans for other releases, 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 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~~]when equipment breaks down;

(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 director.

(3) Recordkeeping. Each owner or operator shall maintain and keep, on-site or at a location approved by the 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 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~~]3)(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 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 director by March 1st 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 shall include, at [~~a minimum~~]least, 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 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.

(vii) Produced water from an oil or gas production well – 1.00 tons per 53 barrels of produced water.

(d) If an owner or operator of a municipal landfill or a construction 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~~]if approved by the 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 that may cause or lead to the release of wastes to the environment or to a threat to human health. The owner or operator 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 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 director or the director's authorized representative upon request.

(b) The director or any authorized officer, employee, or representative of the 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 ascertaining compliance with Rules R315-301 through R315-32[~~0~~]2 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.

Before 60 days after certification of closure, the owner or operator of a solid waste disposal facility shall:

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

(b) submit proof of record of title filing to the director.

R315-302-3. General Closure and Post Closure Requirements.

(1) Applicability.

(a) The owner or operator of any solid waste disposal facility that requires a permit shall meet the applicable standards of Section R315-302-3 and shall provide financial assurance for closure and post-closure care costs [~~that meets~~]according to the requirements of Rule R315-309.

(b) The requirements of Subsections R315-302-3(2), R315-302-3(3), and R315-302-3(4) [~~of this section~~]apply to any solid waste management facility as defined by Subsection 19-6-502(12). The requirements of Subsections R315-302-3(5), R315-302-3(6), and R315-30203(7) [~~of this section~~]apply to:

(i) Class I, II, IV, V, [~~and~~]VI, and VII Landfills;

(ii) Class III Landfills as specified in Rule R315-304[~~:~~]; and

(iii) any landtreatment disposal facility.

(2) Closure Performance Standard. Each owner or operator shall close its facility or unit in a manner that:

(a) minimizes the need for further maintenance;

(b) minimizes or eliminates threats to human health and the environment from post-closure escape of solid waste constituents, leachate, landfill gases, contaminated run[~~-~~]off or waste decomposition products to the ground, ground water, surface water, or the atmosphere; and

(c) prepares the facility or unit for the post-closure period.

(3) Closure Plan and Amendment.

(a) Closure may include covering, grading, seeding, landscaping, contouring, and screening. For a transfer station or a drop box facility, closure includes waste removal and decontamination of the site, including soil analysis, ground water analysis, or other procedures as required by the [~~D~~]director.

(b) Each owner or operator shall develop, keep on file and abide by a plan of closure required by Subsection R315-302-2(2)(m) [~~which~~]that, [~~when~~]if approved by the [~~D~~]director, will become part of the permit.

(c) The closure plan shall project time intervals [~~at which~~]when sequential partial closure, if applicable, is to be implemented and identify closure cost estimates and projected fund withdrawal intervals for the associated closure costs from the approved financial assurance instrument required by Rule R315-309.

(d) The closure plan may be amended if conditions and circumstances justify [~~such~~]amendment. If it is determined that amendment of a facility closure plan is required, the [~~D~~]director may direct facility closure activities, in part or whole, to cease until the closure plan amendment has been reviewed and approved by the [~~D~~]director.

(e) Each owner and operator shall close the facility or unit in accordance with the approved closure plan and [~~all~~]approved amendments.

(4) Closure Procedures.

(a) Each owner and operator shall notify the [~~D~~]director of the intent to implement the closure plan in whole or part, 60 days [~~prior to~~]before the projected final receipt of waste at the unit or facility unless otherwise specified in the approved closure plan.

(b) The owner or operator shall commence implementation of the closure plan, in part or whole, within 30 days after receipt of the final volume of waste, or for landfills, when the final elevation is attained in part or [~~all of~~]the entire facility cell or unit as identified in the approved facility closure plan unless otherwise specified in the approved closure plan. Closure activities shall be completed within 180 days from their starting time. Extensions of the closure period may be granted by the [~~D~~]director if justification for the extension is documented by the owner or operator.

(c) When an owner or operator completes closure of a solid waste management unit or facility closure is completed, he shall, within 90 days or as required by the [~~D~~]director, submit to the [~~D~~]director:

(i) facility or unit closure plans, except for Class IIIb, IVb, [~~and~~]VI, and VII Landfills, signed by a professional engineer registered in [~~the state of~~]Utah, and modified as necessary to represent as-built changes to final closure construction as approved in the closure plan; and

(ii) certification by the owner or operator, and, except for Class IIIb, IVb, [~~and~~]VI, and VII Landfills, a professional engineer registered in [~~the state of~~]Utah, that the site or unit has been closed in accordance with the approved closure plan.

(5) Post-Closure Performance Standard. Each owner or operator shall provide post-closure activities for continued facility maintenance and monitoring of gases, land, and water for 30 years or as long as the [~~D~~]director determines is necessary for the facility or unit to become stabilized and to protect human health and the environment.

(6) Post-Closure Plan and Amendment.

(a) For any disposal facility, except an energy recovery or incinerator facility, post-closure care may include:

(i) ground water and surface water monitoring;

(ii) leachate collection and treatment;

(iii) gas monitoring;

(iv) maintenance of the facility, the facility structures that remain after closure, and monitoring systems for their intended use as required by the approved permit;

(v) a description of the planned use of the property; and

(vi) any other activity required by the [~~D~~]director to protect human health and the environment for a period of 30 years or a period established by the [~~D~~]director.

(b) Each owner or operator shall develop, keep on file, and abide by a post-closure plan as required by Subsection R315-302-2(2)(m) and as approved by the [~~D~~]director as part of the permit. The post-closure plan shall address facility or unit maintenance and monitoring activities until the site becomes stabilized, [~~(i.e.~~]for example, little or no settlement, gas production or leachate generation[~~)~~], and monitoring and maintenance activities can be safely discontinued.

(c) The post-closure plan shall project time intervals [~~at which~~]when post-closure activities are to be implemented and identify post-closure cost estimates and projected fund withdrawal intervals from the selected financial assurance instrument, [~~where~~]if applicable, for the associated post-closure costs.

(d) The post-closure plan may be amended if conditions and circumstances justify [~~such~~]amendment. If it is determined that amendment of a facility or unit post-closure plan is required, the [~~D~~]director may direct facility post-closure activities, in part or whole, to cease until the post-closure plan amendment has been reviewed and approved.

(7) Post-Closure Procedures.

(a) Each owner or operator shall commence post-closure activities after closure activities have been completed. The [~~D~~]director may direct that post-closure activities cease until the owner or operator receives a notice from the [~~D~~]director to proceed with post-closure activities.

(b) When post-closure activities are complete, as determined by the [~~D~~]director, the owner or operator shall submit a certification to the [~~D~~]director, signed by the owner or operator, and, except for Class IIIb, IVb, [~~and~~]VI, and VII Landfills, a professional engineer registered in [~~the state of~~]Utah stating why post-closure activities are no longer necessary, [~~(i.e.~~]for example, little or no settlement, gas production, or leachate generation[~~)~~].

(c) If the [~~D~~]director finds that post-closure monitoring has established that the facility or unit is stabilized, [~~(i.e.~~]for example, little or no settlement, gas production, or leachate generation[~~)~~], the [~~D~~]director may authorize the owner or operator to

discontinue [~~any portion or all of~~]the post-closure maintenance and monitoring activities or any portion of the post-closure maintenance and monitoring activities, whichever is appropriate.

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R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-303. Landfilling Standards.
R315-303-1. Applicability.

The standards of Rule R315-303 apply to:

(1) Class I, II, and V Landfills;

(2) Class III Landfills as specified in Rule R315-304;[~~and~~]

(3) Class IV, and VI Landfills as specified in Rule R315-305[~~.~~]; and

(4) Class VII Landfills as specified in Rule R315-321.

R315-303-3. Standards for Design.

(1) Minimizing Liquids. An owner or operator of a [~~landfill~~] facility that disposes of nonhazardous solid waste in landfill cells shall minimize liquids admitted to active areas by:

(a) covering according to Subsection R315-303-4(4);

(b) prohibiting the disposal of containerized liquids larger than household size, noncontainerized liquids, sludge containing free liquids, or any waste containing free liquids in containers larger than household size;

(c) designing the landfill to prevent run[-]on of [~~all~~]surface waters resulting from a maximum flow of a 25-year storm into the active area of the landfill; and

(d) designing the landfill to collect and treat the run[-]off of surface waters and other liquids resulting from a 25-year storm from the active area of the landfill.

(e) If the owner or operator of a landfill has received a storm water permit as issued by the Utah Division of Water Quality and is meeting the requirements of the permit, the landfill may be exempt, upon approval of the [~~D~~]director, from the run[-]on and run[-]off control requirements of Subsections R315-303-3(1)(c) and R315-303-3(1)(d).

(2) High liquid wastes.

(a) The direct disposal of high liquid wastes in landfill cells is prohibited unless the owner or operator implements appropriate measures described in a high liquid waste management plan approved by the director and included in the plan of operation, that includes the following information:

(i) waste acceptance criteria;

(ii) dewatering unit design and techniques, if proposed;

(iii) other stabilization or treatment techniques, if proposed; and

(iv) a communication plan to inform customers of high liquid waste acceptance criteria, and costs associated with treatment of high liquids waste at the facility.

(b) An owner or operator of a solid waste management facility that utilizes processes such as dewatering or other stabilization or treatment techniques shall:

(i) install and maintain a containment system having a permeability of no more than 1 x 10^{-7} cm/sec, that is capable of maintaining integrity under the operation of heavy equipment for:

(A) all high liquid waste unloading areas and structures;

(B) staging areas for high liquid wastes before dewatering, stabilization, or other treatment; and

(C) areas used for dewatering, stabilization, or other treatment; and

(ii) appropriately manage leachates derived from the dewatering or stabilization of high liquid wastes, including through evaporation in a permitted solid waste surface impoundment.

(c) The director may require as a condition of approval of a high liquid waste management plan, that the owner or operator submit appropriate engineering reports demonstrating that disposal of stabilized or dewatered high liquid wastes in a landfill cell will not result in unacceptable geotechnical risks of landfill cell slope or final cover failures.

([~~2~~]3) Leachate Collection Systems.

(a) An owner or operator of a landfill required to install liners shall:

(i) install a leachate collection system sized according to water balance calculations or using other accepted engineering methods, either of which shall be approved by the [~~D~~]director;

(ii) install a leachate collection system so as to prevent no more than one foot depth of leachate developing at any point in the bottom of the landfill unit; and

(iii) install a leachate treatment system or a pretreatment system, if necessary, in the case of discharge to a municipal water treatment plant.

(b) The returning of leachate to the landfill or the recirculation of leachate in the landfill may be done only in landfills that have a composite liner system or an approved equivalent liner system.

(c) Leachate may be managed or disposed of in a solid waste surface impoundment designed and operated in accordance with Rule R315-322.

([~~3~~]4) Liner Designs. [~~An owner or operator of a landfill~~]Except as provided in Section R315-322-5, liner design for any landfill cell or solid waste surface impoundment shall use liners of one of the following designs:

(a) Standard Design. The design shall have a composite liner system consisting of two liners and the associated liner protection layers and a drainage system for leachate collection:

(i) an upper liner made of synthetic material with a thickness of a least 60 mils; and

(ii) a lower liner of at least two feet thickness of recompacted clay or other soil material with a permeability of no more than 1 x 10^{-7} cm/sec having the bottom liner sloped no less than 2% and the side liners sloped no more than 33%, except where construction

and operational integrity can be demonstrated at steeper slopes, with the synthetic liner installed in direct and uniform contact with the compacted soil component; or

(b) Equivalent Design.

(i) The [~~D~~]director may approve an alternative liner design, on a site specific basis, if it can be documented that, under the conditions of location and hydrogeology, the equivalent design will minimize the migration of solid waste constituents or leachate into the ground or surface water at least as effectively as the liner design required in Subsection R315-303-3([~~3~~]4)(a).

(ii) [~~When~~]While approving an equivalent liner design, the [~~D~~]director shall consider the following factors:

(A) the hydrogeologic characteristics of the facility and surrounding land;

(B) the climatic factors of the area; and

(C) the volume and physical and chemical characteristics of the leachate; or

(c) Alternative Design.

(i) The owner or operator may use, as approved by the [~~D~~]director, an alternative design.

(ii) The owner or operator [~~must~~]shall demonstrate that the ground water quality protection standard of Subsection R315-303-2(1) can be met. The demonstration [~~must~~]shall be approved by the [~~D~~]director, and [~~must~~]shall be based upon:

(A) the hydrogeologic characteristics of the facility and the surrounding land;

(B) the climatic factors of the area;

(C) the volume and physical and chemical characteristics of the leachate;

(D) predictions of contaminate fate and transport in the subsurface that maximize contaminant migration and consider impacts on human health and the environment; and

(E) predictions of leachate flow from the base of the waste to the uppermost aquifer; or

(d) Stringent Design. [~~When~~]If conditions of location, hydrogeology, or waste stream justify, the [~~D~~]director may require that the liner of a landfill be constructed to meet standards more stringent than the liner designs of Subsection R315-303-[~~3~~]4(3)(a).

(e) Small [~~Landfill~~]Facility Design.

(i) [~~The s~~]Small [~~landfill~~]facility design applies only to a Class II [~~Landfill~~]Facility.

(ii) Each new Class II [~~Landfill~~]Facility and any existing Class II [~~Landfill~~]Facility seeking facility expansion shall meet the location standards of Section R315-302-1.

(iii) Each new and existing Class II [~~Landfill~~]Facility shall meet the performance standards of Section R315-303-2.

(iv) A Class II [~~Landfill~~]Facility, which meets the requirements of Subsection R315-303-3([~~3~~]4)(e)(v), is exempt from the liner, leachate collection system, and ground water monitoring requirements of Rule R315-303.

(v) A Class II [~~Landfill~~]Facility will be approved only if:

(A) there is no evidence of existing ground water contamination;

(B) the [~~landfill~~]facility serves a community that has no practicable waste management alternative as determined by the [~~D~~]director;

(C) the [~~landfill~~]facility is located in an area [~~which~~]that receives less than 25 inches of annual precipitation;

(D) the [~~landfill~~]facility receives, on a yearly average, no more than 20 tons of waste per day, or if a tonnage cannot be determined, serves a population of no more than 8,900; and

(E) the [~~landfill~~]facility meets [~~all~~]the requirements in Rules R315-301 through 32[~~0~~]2 applicable to Class II [~~landfills~~]facilities.

(vi) A Class II [~~Landfill~~]Facility may lose the exemptions of the small [~~landfill~~]facility design if at any time the [~~landfill~~]facility receives more than 20 tons of solid waste per day, based on an annual average, or has caused ground water contamination.

([4]5) Closure. At closure, an owner or operator of a Class I, II, IIIa, IVa, [~~and~~]V, or VII [~~Landfill~~]Facility shall use one of the following designs for the final cover for each associated landfill cell.

(a) Standard Design. The standard design of the final cover for landfill cells within the facility shall consist of two layers:

(i) a layer to minimize infiltration, consisting of at least 18 inches of compacted soil, or equivalent, with a permeability of 1 x 10^{-5} cm/sec or less, or equivalent, shall be placed upon the final lifts;

(A) in no case shall the cover of the final lifts be more permeable than the bottom liner system or natural subsoils present in the unit; and

(B) the grade of surface slopes shall not be less than 2%, nor the grade of side slopes more than 33%, except where construction integrity and the integrity of erosion control can be demonstrated at steeper slopes; and

(ii) a layer to minimize erosion, consisting of:

(A) at least [~~6~~]six inches of soil capable of sustaining vegetative growth placed over the compacted soil cover and seeded with grass, other shallow rooted vegetation or other native vegetation; or

(B) other suitable material, approved by the [~~D~~]director.

(b) Requirements for any Earthen Final Cover [~~at~~]on a [~~L~~]landfill cell.

(i) Markers or other benchmarks shall be installed in any final earthen cover to indicate the thickness of the final cover. These markers shall be observed during each quarterly inspection and the earthen cover shall be raised to the appropriate thickness as necessary.

(ii) Erosion channels deeper than 10% of the total cover thickness shall be repaired as soon as possible following their discovery.

(c) Alternative Final Cover Design. The [~~D~~]director may approve an alternative final cover design, on a site specific basis, if it can be documented that:

(i) the alternative final cover achieves an equivalent reduction in infiltration as achieved by the standard design in Subsection R315-303-3([4]5)(a)(i); and

(ii) the alternative final cover provides equivalent protection from wind and water erosion as achieved by the standard design in Subsection R315-303-3([4]5)(a)(ii).

(d) The expected performance of an alternative final cover design shall be documented by the use of an appropriate mathematical model.

(i) The input for the modeling shall include the climatic conditions at the specific [~~landfill~~]facility site and the soil types that will make up the final cover.

(ii) The model shall:

(A) be run to show the expected performance of the final cover at normal precipitation for a period of time until stability has been reached; and

(B) shall be run to show the expected performance of the final cover during the five wettest years on record at the site or the nearest weather station.

(e) The [~~D~~]director shall use the following criteria as part of the basis for determining if an alternative final cover will be approved:

(i) If the landfill cell has a liner design that does not use a synthetic material such as HDPE, the model will compare the infiltration through the standard cover as required in Subsection R315-303-3([4]5)(a) and shall show that the alternative cover performs as well as the standard cover; or

(ii) If the landfill cell has a liner composed in part of a synthetic material such as HDPE, the model [~~must~~]shall show an infiltration rate of no greater that 3 millimeters of water per year during any year of the model run.

(f) If a landfill cell has been constructed using an approved alternative landfill cell design, the [~~D~~]director may require, on a site-specific basis, the landfill cell closure design to be more stringent than the standard design specified in Subsection R315-303-3([4]5)(a) to protect human health or the environment.

(g) In no case shall any modification be made to the final cover, as placed and approved at closure by the [~~D~~]director, unless that modification:

(i) is a necessary repair of the approved final cover;

(ii) maintains or improves the effectiveness of the final cover; and

(iii) is approved by the [~~D~~]director.

([~~5~~]6) Gas Control.

(a) An owner or operator shall design each landfill so that explosive gases are monitored quarterly.

(b) If the concentration of these gases ever exceed the standard set in Subsection R315-303-2(2)(a), the owner or operator [~~must~~]shall:

(i) immediately take [~~all~~]the necessary steps to ensure protection of human health and, within 24 hours or the next business day, notify the [~~D~~]director;

(ii) within seven days of detection, place in the operating record the explosive gas levels detected and a description of the steps taken to protect human health; and

(iii) within 60 days of detection, implement a remediation plan, that has been approved by the [~~D~~]director, for the explosive gas release, place a copy of the plan in the operating record, and notify the [~~D~~]director that the plan has been implemented.

(c) Collection and handling of explosive gases shall not be required if it can be shown that the explosive gases will not support combustion.

(d) The [~~D~~]director may, on a site[-]-specific basis, waive the requirement of monitoring explosive gases at a Class II [~~Landfill~~]Facility. The wavier may be granted after:

(i) considering the characteristics of the landfill and the waste stream accepted;

(ii) taking into account climatic and hydrogeologic conditions of the site; and

(iii) completing a public comment period as specified by Section R315-311-3.

(iv) The [~~D~~]director may revoke any waiver from the requirement of monitoring explosive gases if the lack of monitoring explosive gases at the landfill presents a threat to human health or the environment.

(v) The requirement to monitor explosive gases inside buildings at a landfill may not be waived.

(e) A landfill that accepts no municipal waste, or other waste with potential to generate methane during decomposition, is exempt from the gas monitoring requirement of Subsection R315-303-3([~~5~~]6)(a).

([~~6~~]7) Design Drawings.

(a) Design drawings and as built drawings of any engineered structure, including landfill cell liners, leachate collection systems, run[-]on[/] or run[-]off control systems, final covers, ground water monitoring systems, and gas collection systems, shall be signed and sealed by a professional engineer registered in [~~the State of~~]Utah.

(b) As built drawings shall be submitted to the [~~D~~]director on or before 90 days following the completion of the engineered structures associated with the facility[~~at the landfill~~].

([~~7~~]8) Other Requirements. An owner or operator shall design each [~~landfill~~]solid waste management facility to provide for:

(a) fencing at the property or unit boundary or the use of other artificial or natural barriers to impede entry by the public and large animals. A lockable gate shall be required at the entry to the [~~landfill~~]facility;

(b) monitoring ground water according to Rule R315-308 using a design approved by the [~~D~~]director. The [~~D~~]director may also require monitoring of:

(i) surface waters, including run[-]off;
(ii) leachate; and
(iii) subsurface landfill gas movement and ambient air;
(c) weighing or estimating the tonnage of [~~all~~]the incoming waste and recording the tonnage in the facility's operation record;
(d) erecting a sign at the facility entrance that identifies at least the name of the facility, the hours [~~during which~~]that the facility is open for public use, unacceptable materials, and an emergency telephone number. Other pertinent information may also be included;
(e) adequate fire protection to control any fires that may occur at the facility. This may be accomplished by on-site equipment or by arrangement made with the nearest fire department;
(f) preventing potential harborage in buildings, facilities, and active areas of rat and other vectors, such as insects, birds, and burrowing animals;
(g) minimizing the size of the unloading area and working face as much as possible, consistent with good traffic patterns and safe operation;
(h) approach and exit roads of all-weather construction, with traffic separation and traffic control on-site and at the site entrance; and
(i) communication, such as telephone or radio, between employees working at the [~~landfill~~]facility and management offices on-site and off-site to handle emergencies.

R315-303-4. Standards for Maintenance and Operation.
(1) Plan of Operation. An owner or operator of a landfill shall maintain and operate the facility to conform to the approved plan of operation.
(2) Operating Details. An owner or operator of a landfill shall operate the facility to:
(a) control fugitive dust generated from roads, construction, general operations, and covering the waste;
(b) allow no open burning;
(c) collect scattered litter as necessary to avoid a fire hazard or an aesthetic nuisance;
(d) prohibit scavenging;
(e) conduct reclamation of facility property in an orderly sanitary manner and in a way that does not interfere with the disposal site operation;
(f) ensure that [~~landfill~~]facility personnel, trained in [~~landfill~~]facility operations, are on site when the site is open to the public:
(i) at least one person on site for landfills that receive, on an average annual basis, less than 15,000 tons per year; and
(ii) at least two persons on site, with one person at the active landfill cell face, for each landfill that receives, on an average annual basis, more than 15,000 tons per year;
(g) control insects, rodents, and other vectors;[~~and~~]
(h) ensure that waste containers and storage tanks are functional by:
(i) using containers or tanks that are not deteriorating and are free of cracks, rust, leaks, or other conditions that may compromise the integrity of the containers or tanks;
(ii) using containers or tanks that are made of or lined with materials that will not react with and are otherwise compatible with the waste in the container; and
(iii) using appropriate netting, fencing, or other deterrents to prevent harm to animals if open tanks or containers with an accumulation of hydrocarbons or any other substance are a risk to wildlife or migratory birds; and
([~~h~~]i) ensure that reserve operational equipment will be available to maintain and meet these standards.
(3) Boundary Posts. An owner or operator of a landfill shall clearly mark the active area boundaries authorized in the permit by placing permanent posts or by using an equivalent method clearly visible for inspection purposes.
(4) Daily and Intermediate Cover.
(a) An owner or operator of a landfill shall, at the close of each day of operation, completely cover the waste with at least six inches of soil or an alternative daily cover as allowed in Subsections R315-303-4(4)(b) through R315-303-4(4)(e).
(b) The following are approved for use as alternative daily covers:
(i) nonhazardous contaminated soil; and
(ii) subject to the conditions contained in Subsection R315-303-4(4)(c):
(A) tarps;
(B) plastic sheets, if designed for landfill cover use;
(C) foam products, if designed for landfill cover use;
(D) products created from cement kiln dust, if designed for landfill cover use;
(E) incinerator ash;
(F) nonhazardous auto shredder residue not otherwise regulated by 40 CFR Part 761;
(G) chipped waste tires, two inches square or smaller; and
(H) spray-on materials, if designed for landfill cover use.
(c) The use of an approved alternative daily cover is subject to the following conditions:
(i) the alternative daily cover may not present a threat to human health or the environment; and
(ii) the alternative daily cover may be used only on a schedule as established by the facility owner or operator and recorded in the facility operating record.

(iii) The facility owner or operator shall establish the schedule for use of the approved alternative cover based on the alternative cover's performance in controlling vectors, fires, odors, blowing, and scavenging. The schedule shall contain the following requirements:

(A) any schedule established by the facility owner or operator shall provide for the placing of six inches of soil cover at least once per week;

(B) no approved alternative daily cover may be used on the day preceding a day the landfill will be closed;

(C) no alternative daily cover may be used on an area of the landfill that will not be covered with waste or an intermediate cover, as required in Subsection R315-303-4(4)(g), within two days; and

(D) the director may require the use of six inches of soil cover upon finding that use of an alternative cover is not controlling vectors, fires, odors, blowing liter or scavenging.

(iv) The landfill operating record shall clearly document the days when an alternative cover was used and the days when soil cover was used.

(v) The director may revoke the use of any alternative daily cover at any landfill facility if any condition of Subsection R315-303-4(4)(c) is not met or if the alternative daily cover is determined to present a threat to human health or the environment.

(d) Materials not listed in Subsection R315-303-4(4)(b) may be used as alternative daily cover on an infrequent basis if the material meets the requirements of Subsection R315-303-4-(4)(c) and the use is documented in the facility operating record.

(e) Materials not listed in Subsection R315-303-4(4)(b) that a facility owner or operator wants to use on an ongoing basis shall be approved by the director. Director approval is based on the material meeting the requirements of Subsection R315-303-4(4)(c).

(f) The director may, on a site specific basis, waive the requirement for daily cover of the waste at a landfill that accepts no municipal waste if the owner or operator demonstrates that an alternative schedule for covering the waste does not present a threat to human health or the environment. The demonstration from the owner or operator of the landfill shall include at least the following:

(i) certification that the landfill accepts no municipal waste;

(ii) a detailed list of the waste types accepted by the landfill;

(iii) the alternative schedule for when the waste will be covered; and

(iv) any other operational practices that may reduce the threat to human health or the environment if an alternative schedule for covering the waste is followed.

(v) In granting any wavier from the daily cover requirement, the director may place conditions on the owner or operator of the landfill as to the frequency of covering, depth of the cover, or type of material used as cover that will minimize the threat to human health or the environment.

(vi) The director may revoke any waiver from the daily cover requirement if any condition is not met or if the alternative schedule for covering the waste presents a threat to human health or the environment.

(g) If an area of the working face of a landfill that accepts municipal waste will not receive waste for a period longer than 30 days, the owner or operator shall cover the area with a minimum of 12 inches of soil as an intermediate cover or an alternative intermediate cover as approved by the director.

(i) No alternative intermediate cover will be approved by the director without application from the owner or operator.

(ii) Approval for an alternative intermediate cover may be granted after:

(A) considering the design of the landfill, waste stream accepted, and waste handling practices; and

(B) taking into account climatic, hydrogeologic, and soil conditions of the site.

(iii) In granting approval for an alternative intermediate cover, the director may place conditions on the owner or operator of the landfill as to the depth or type of material used and maintenance of the integrity of the cover that will minimize the threat to human health or the environment.

(iv) The director may revoke the approval of an alternative intermediate cover if any condition is not met or if the use of the alternative intermediate cover is determined to present a threat to human health or the environment.

(5) Monitoring Systems. An owner or operator of a landfill shall maintain the monitoring systems required in Subsection R315-303-3([~~7~~]8)(b).

(6) Recycling Required.

(a) An owner or operator of a landfill where the general public delivers household solid waste shall provide containers where the general public may place recyclable materials that have a market. The containers shall be placed at a location convenient to the public and shall be accessible to the public during normal hours of facility operation.

(b) An owner or operator may demonstrate alternative means to providing an opportunity for the general public to recycle household solid waste.

(7) Disposal of Hazardous Waste and Waste Containing PCBs.

(a) An owner or operator of a solid waste [~~disposal~~]management facility shall not knowingly accept, dispose, treat, store, or otherwise handle hazardous waste or waste containing PCBs except under the following conditions:

(i) hazardous waste:

(A) the waste meets the conditions specified in Subsections R315-261-4; or

(B) the waste meets the conditions specified in Subsection R315-262-13(f)(1) or R315-262-14; or

(ii) waste containing PCBs:

(A) the facility meets the requirements specified in Subsection R315-315-7(3)(a); or

(B) the waste meets the requirements specified in Subsection[~~s~~] R315-315-7(2) or R315-315-7(3)(b).

(b) An owner or operator of a solid waste [~~disposal~~]management facility shall include and implement, as part of the plan of operation, a plan that will inspect loads or take other steps, as approved by the director, that will prevent the disposal of prohibited hazardous waste and prohibited waste containing PCBs, including:

(i) inspection frequency and inspection of loads suspected of containing prohibited hazardous waste or prohibited waste containing PCBs;

(ii) inspection in a designated area or at a designated point in the disposal process;

(iii) a training program for the facility employees in identification of prohibited hazardous waste and prohibited waste containing PCBs; and

(iv) maintaining written records of inspections, signed by the inspector.

(c) If the receipt of prohibited hazardous waste or prohibited waste containing PCBs is discovered, the owner or operator of the facility shall:

(i) notify the director, the hauler, and the generator within 24 hours;

(ii) restrict the inspection area from public access and from facility personnel; and

(iii) assure proper cleanup, transport, and disposal of the waste.

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R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-304. Industrial Solid Waste Landfill Requirements.

R315-304-5. Industrial Landfill Requirements.

(1) Each Class III Landfill shall meet the following applicable requirements, as determined by the [~~D~~]director:

(a) the plan of operation requirements of Subsections R315-302-2(2)(a), R315-302-2(2)(b), R315-302-2(2)(c), R315-302-2(2)(d), R315-302-2(2)(g), R315-302-2(2)(i), R315-302-2(2)(j), R315-302-2(2)(k), R315-302-2(2)(l), R315-302-2(2)(m), R315-302-2(2)(n), and R315-302-2(2)(o);

(b) the recordkeeping requirements of Subsections R315-302-2(3)(a), R315-302-2(3)(b)(i), R315-302-2(3)(b)(iii), R315-302-2(3)(b)(iv), and R315-302-2(3)(b)(vi);

(c) the reporting requirements of Subsection R315-302-2(4); and

(d) the inspection requirements of Subsection R315-302-2(5).

(2) Each Class III Landfill shall meet the applicable general requirements for closure and post-closure care [~~of~~]found in Subsections R315-302-2(6)[~~;~~], R315-302-3(2)[~~;~~], R315-302-3(3)[~~;~~], R315-302-3(4)(a)[~~;~~] and R315-302-3(4)(b)[~~;~~], R315-302-3(5)[~~;~~], R315-302-3(6)(a)(iv) through R315-302-3(6)(a)(vi), R315-302-3(6)(b)[~~;~~] and R315-302-3(6)(c)[~~;~~], and R315-302-3(7)(a) as determined by the [~~D~~]director.

(a) Each Class IIIa Landfill shall meet the closure requirements of Subsection R315-303-3([4]5).

(b) Each Class IIIb Landfill shall meet the closure requirements of Subsection R315-305-5(5)(b).

(c) If a Class III Landfill is already subject to the closure and post-closure requirements of another [~~F~~]federal or state agency [~~which~~]that are as stringent as specified in Subsection[~~s~~] R315-304-5(2)(a) or R315-304-5(2)(b), the landfill may be exempt, upon approval of the [~~D~~]director, from the closure requirements of Subsection[~~s~~] R315-304-5(2)(a) or R315-304-5(2)(b).

(3) Standards for Design.

(a) The owner or operator of a Class III Landfill shall design the landfill to minimize the acceptance of liquids and control storm water run[~~-~~] or on[~~/~~]run[~~-~~]off as specified in Subsections R315-303-3(1)(b), R315-303-3(1)(c), and R315-303-3(1)(d).

(b) The owner or operator of a Class III Landfill shall design the landfill to meet the requirements of Subsections R315-303-3([~~7~~]8)(a), R315-303-3(8)(c), R315-303-3(8)(e), R315-303-3(8)(f), R315-303-3(8)(g), R315-303-3(8)(h), and R315-303-3(8)(i) as determined by the [~~D~~]director.

(4) Ground Water Monitoring.

(a) The owner or operator of a Class IIIa Landfill shall monitor the ground water beneath the landfill as specified in Rule R315-308.

(b) Subject to the performance standard of Subsection R315-303-2(1), if the owner or operator of a Class IIIa Landfill is monitoring the ground water beneath the landfill and otherwise meeting the requirements of a discharge permit as issued by the Utah Division of Water Quality, the landfill may be exempt, upon approval of the [~~D~~]director, from the ground water monitoring requirements of Rule R315-308.

(c) A Class IIIb Landfill is exempt from the ground water monitoring requirements of Rule R315-308.

(5) Standards for Operation.

(a) Each Class IIIa Landfill shall meet the standards of Section R315-303-4 except:

(i) for the requirements of Subsections R315-303-4(2)(f) and R315-303-4(6); and

(ii) may be exempt from the daily cover requirements of Subsection R315-303-4(4) upon the demonstration that an alternate schedule for the covering of waste at the landfill will not present a threat to human health or the environment.

(b) Each Class IIIb Landfill shall meet the requirements for operation in Subsections R315-305-4(7) and R315-305-5(2) through R315-305-5(4) as determined by the [~~D~~]director.

(6) Financial Assurance.

(a) The owner or operator of each Class III Landfill shall establish financial assurance as required by Rule R315-309.

(b) If the owner or operator of a Class III Landfill has financial assurance, in effect and active, that covers the costs of closure and post-closure care of the landfill as required by another [~~F~~]federal or state agency [~~which~~]that is as stringent as the requirements of Rule R315-309, the landfill may be exempt, upon approval of the [~~D~~]director, from the financial assurance requirements of Rule R315-309.

(7) Permit Requirements.

Each Class III Landfill shall apply for and [~~obtain~~]get a permit to operate by meeting the applicable requirements of Rule R315-310.

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R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-305. Class IV and VI Landfill Requirements.

R315-305-4. General Requirements.

(1) Location Standards.

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

(b) A new Class IVb or VI Landfill or the expansion of an existing Class IVb or VI 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 as specified in Subsection R315-302-1(2)(e)(i)(B);

(iv) the standards with respect to geology as specified in Subsections R315-302-1(2)(b)(i) and R315-302-1(2)(b)(iv);

(v) if the permit application for a new Class IVb, or VI Landfill requests approval to accept dead animals for disposal, the application shall document that the landfill also meets the land use compatibility requirements of Subsections R315-302-1(2)(a)(i), R315-302-1(2)(a)(ii), R315-302-1(2)(a)(iv), and R315-302-1(2)(a)(v); and

(vi) The requirements of Subsection R315-302-1(2)(f).

(c) Exemptions from the location standards of Subsections R315-305-4(1)(b)(i), R315-305-4(1)(b)(ii), R315-305-4(1)(b)(iii), R315-305-4(1)(b)(iv), and R315-305-4(1)(b)(v) may be granted by the [~~D~~]director for a new Class IVb or VI Landfill, on a site specific bases, if it is determined that the exemption will cause no adverse impact 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 meet more stringent design, construction, monitoring, or operation requirements than the minimum described in Rule R315-305 to protect human health or the environment.

(d) An existing Class IVa, IVb, or VI Landfill:

(i) shall not be subject to the location standards of Subsection[~~s~~] R315-305-4(1)(a) or R315-305-4(1)(b)(i), R315-305-4(1)(b)(ii), R315-305-4(1)(b)(iii), or R315-305-4(1)(b)(iv); but

(ii) if the current permit of an existing Class IVa, IVb, or VI Landfill does not allow the acceptance of dead animals and the owner or operator requests approval to accept dead animals for disposal, the request to the [~~D~~]director shall document that the landfill also meets the land use compatibility requirements of Subsections R315-302-1(2)(a)(i), R315-302-1(2)(a)(ii), R315-302-1(2)(a)(iv), and R315-302-1(2)(a)(v).

(2) An owner or operator of a Class IV or VI Landfill shall [~~obtain~~]get a permit, as set forth in Rule R315-310.

(3) An owner or operator of a Class IV or VI Landfill shall design and operate the landfill to:

(a) prevent the run[-]on of [~~all~~]surface waters resulting from a maximum flow of a 25-year storm into the active area of the landfill; and

(b) collect and treat, if necessary, the run[-]off of surface waters and other liquids resulting from a 25-year storm from the active area of the landfill.

(4) An owner or operator of a Class IVa Landfill shall monitor the ground water beneath the landfill as specified in Rule R315-308.

(5) An owner or operator of a Class IV or VI Landfill shall erect a sign at the facility entrance as specified in Subsection R315-303-3([~~7~~]8)(d).

(6) An owner or operator of a Class IV or VI Landfill shall maintain the applicable records as specified in Subsection R315-302-2(3).

(7) An owner or operator of a Class IV or VI Landfill shall meet the requirements of Subsection R315-302-2(6) and make the required recording with the county recorder.

R315-305-5. Requirements for Operation.

(1) The owner or operator of a Class IV or VI Landfill shall not accept any other form of waste except the wastes specified in Subsection R315-305-1(1).

(2) The owner or operator of a Class IV or VI Landfill shall prevent the disposal of unauthorized waste by ensuring that at least one person is on site during hours of operation and shall prevent unauthorized disposal during off-hours by controlling entry[~~, i.e.,~~]with a lockable gate or barrier, when the facility is not open.

(3) The owner or operator of a Class IV or VI Landfill shall:

(a) minimize the size of the working face as required by Subsection R315-303-3([~~7~~]8)(g);

(b) employ measures to prevent emission of fugitive dusts, when weather conditions or climate indicate that transport of dust off-site is liable to create a nuisance;

(c) meet the requirements of Subsection R315-303-3(1)(a) and R315-303-3(1)(b) to minimize liquids admitted to the landfill;

(d) collect scattered litter as necessary to avoid a fire hazard or an aesthetic nuisance; and

(e) prohibit scavenging.

(4) The owner or operator of a Class IV or VI Landfill shall cover timbers, wood, and other combustible waste with a minimum of six inches of soil, or equivalent, as needed to avoid a fire hazard.

(5) The owner or operator of a Class IV or VI Landfill shall meet the applicable general requirements of closure and post-closure care of Section R315-302-3 as determined by the [~~D~~]director.

(a) The owner or operator of a Class IVa Landfill shall meet the specific closure requirements of Subsection R315-303-3([~~4~~]5).

(b) The owner or operator of a Class IVb or VI Landfill shall close the facility by:

(i) leveling the waste to the extent practicable;

(ii) covering the waste with a minimum of two feet of soil, including six inches of topsoil;

(iii) contouring the cover as specified in Subsection R315-303-3([~~4~~]5)(a)(i)(B); and

(iv) seeding the cover with grass, other shallow rooted vegetation, or other native vegetation or covering in another manner approved by the [~~D~~]director to minimize erosion.

(v) The [~~D~~]director may approve an alternative final cover design for a Class IVb or VI Landfill if it is documented that the alternative final cover provides equivalent protection from infiltration and erosion as the cover specified in Subsection R315-305-5(5)(b).

KEY: solid waste management, solid waste disposal
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R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-307. Landtreatment Disposal Standards.

R315-307-2. Standards for Design.

(1) The owner or operator of a landtreatment disposal facility shall design the facility to provide interim waste storage areas that meet the requirements for piles, as specified in Rule R315-314.

(2) The facility shall have systems to collect and treat any run[-]off from a 25 year storm, and divert any run[-]on for the maximum flow of a 25 year storm around the active area.

(3) The facility shall be designed to avoid standing water anywhere on the active area.

(4) The facility shall be designed to avoid slopes and other features that will lead to soil and waste erosion, unless contour plowing or other measures are taken to avoid erosion.

(5) The owner or operator shall monitor ground water according to Rule R315-308.

(6) The owner or operator shall control access to the facility by fencing or other means and erect a sign as specified in Subsection R315-303-3([~~7~~]8).

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R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-308. Groundwater Monitoring Requirements.
R315-308-1. Applicability.

(1) Each existing [~~landfill, pile, or landtreatment disposal~~]solid waste management facility that is required to perform groundwater monitoring shall comply with the groundwater monitoring requirements according to the compliance schedule as established by the director during the permitting or the permit renewal process.

(2) Before the acceptance of waste, each new [~~landfill, pile, or landtreatment disposal~~]solid waste management facility that is required to perform groundwater monitoring shall have:

(a) a site specific groundwater monitoring plan approved by the director; and

(b) the groundwater monitoring system complete and operational.

(3) Groundwater monitoring requirements may be waived by the director if the owner or operator of a solid waste disposal facility can demonstrate that there is no potential for migration of hazardous constituents from the facility to the groundwater during the active life of the facility and the post-closure care period. This demonstration shall be certified by a qualified groundwater scientist and approved by the director, and [~~t~~]shall be based upon:

(a) site-specific field collected measurements, sampling, and analysis of physical, chemical, and biological processes affecting contaminant fate and transport; and

(b) contaminant fate and transport predictions that maximize contaminant migration and consider impacts on human health and the environment.

(4) Once a groundwater monitoring system and program has been established at a disposal facility, groundwater monitoring shall continue to be conducted throughout the active life, closure, and post-closure care periods as specified by the director.

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

R315-308-2. Ground[~~-W~~]water Monitoring Requirements.

(1) Each facility owner or operator that is required to conduct ground[-]water monitoring shall formulate a ground[-]water monitoring plan that addresses the requirements of Section R315-308-2.

(2) The ground[-]water monitoring system [~~must~~]shall consist of at least one background or upgradient well and two downgradient wells, installed at appropriate locations and depths to yield ground[-]water samples from the uppermost aquifer and [~~all~~]each hydraulically connected aquifer[~~s~~] below the facility, cell, or unit. The downgradient wells shall be designated as the point of compliance and [~~must~~]shall be installed at the closest practicable distance hydraulically down gradient from the unit boundary not to exceed 150 meters, [~~(~~]500 feet[~~)~~], and [~~must~~]shall also be on the property of the owner or operator:

(a) the upgradient well [~~must~~]shall represent the quality of background[-]water that has not been affected by leakage from the active area; and

(b) the downgradient wells [~~must~~]shall represent the quality of ground[-]water passing the point of compliance. Additional wells may be required by the [~~D~~]director in complicated hydrogeological settings or to define the extent of contamination detected.

(3) [~~All~~]Each monitoring well[~~s~~] [~~must~~]shall be cased in a manner that maintains the integrity of the monitoring well bore hole. This casing [~~must~~]shall allow collection of representative ground[-]water samples. Wells [~~must~~]shall be constructed in [~~such~~]a manner [~~as to~~]that prevents contamination of the samples, the sampled strata, and between aquifers and water-bearing strata. [~~All~~]Each monitoring well[~~s~~] and [~~all~~]any other devices and equipment used in the monitoring program [~~must~~]shall be operated and maintained so that they perform to design specifications throughout the life of the monitoring program.

(4) The ground[-]water monitoring program [~~must~~]shall include at a minimum, procedures and techniques for:

(a) well construction and completion;

(b) decontamination of drilling and sampling equipment;

(c) sample collection;

(d) sample preservation and shipment;

(e) analytical procedures and quality assurance;

(f) chain of custody control or sample tracking, as approved by the [~~D~~]director; and

(g) procedures to ensure employee health and safety during well installation and monitoring.

(5) Each facility shall utilize a laboratory, that is certified by the state for the test methods used, to [~~complete~~]finish tests, using methods with appropriate detection levels, on samples for the following:

(a) [~~d~~]During the first year of facility operation after wells are installed or an alternative schedule as approved by the [~~D~~]director, a minimum of eight independent samples from the upgradient and four independent samples from each downgradient well for [~~all~~]each parameter[~~s~~] listed in Section R315-308-4 to establish background concentrations[~~;~~].

(b) [~~a~~]After background levels have been established, a minimum of one sample, semiannually, from each well, background and downgradient, for [~~all~~]each parameter[~~s~~] listed in Section R315-308-4 as a detection monitoring program[~~;~~]. In the detection monitoring program:

(i) [~~In the detection monitoring program,~~]the owner or operator [~~must~~]shall determine ground[-]water quality at each monitoring well on a semiannual basis during the life of an active area, including the closure period, and the post-closure care period[~~-~~]; and

(ii) [~~T~~]the owner or operator [~~must~~]shall express the ground[-]water quality at each monitoring well in a form appropriate for the determination of statistically significant changes[~~;~~].

(c) [~~f~~]Field[-] measured pH, water temperature, and water conductivity [~~must~~]shall accompany each sample collected[~~;~~].

(d) [~~a~~]Analysis for the heavy metals and the organic constituents from Section R315-308-4 shall be completed on unfiltered samples[~~; and~~].

(e) [~~t~~]The [~~D~~]director may specify additional or fewer constituents depending upon the nature of the ground[-]water or the waste on a site specific basis considering:

(i) the types, quantities, and concentrations of constituents in wastes managed at the [~~landfill~~]solid waste management unit;

(ii) the mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the [~~landfill~~]solid waste management unit;

(iii) the detectability of indicator parameters, waste constituents, and reaction products in the ground[-]water; and

(iv) the background concentration or values and coefficients of variation of monitoring parameters or constituents in the ground[-]water.

(f) The following information shall be placed in the facility's operating record and a copy submitted to the [~~D~~]director as the ground[-]water monitoring results to be included in the annual report required by Subsection R315-302-2(4):

(i) a report on the procedures, including the quality control[~~/~~] and quality assurance, followed during the collection of the ground[-]water samples;

(ii) the results of the field measured parameters required by Subsections R315-308-2(5)(c) and R315-308-2(7);

(iii) a report of the chain of custody and quality control[~~/~~] and quality assurance procedures of the laboratory;

(iv) the results of the laboratory analysis, including a list of the detection limits and test methods used, of the constituents listed by name and CAS number specified in Section R315-308-4 or an alternative list of constituents by name and CAS number approved by the [~~D~~]director[~~:~~

~~(A) the results of the laboratory analysis shall list the constituents by name and CAS number; and~~

~~(B) a list of the detection limits and the test methods used~~]; and

(v) the statistical analysis of the results of the ground[-]water monitoring as required by Subsection R315-308-2(8).

(vi) The results of the ground[-]water monitoring may be submitted in electronic format.

(6) After background constituent levels have been established, a ground[-]water quality protection standard shall be set by the [~~D~~]director [~~which~~]that shall become part of the ground[-]water monitoring plan. The ground[-]water quality protection standard will be set as follows.

(a) For constituents with background levels below the standards listed in Section R315-308-4 or as listed in Section R315-308-5, which presents the ground[-]water protection standards that are available for the constituents listed as Appendix II in 40 CFR 258, the ground[-]water quality standards of Sections R315-308-4 and R315-308-5 shall be the ground[-]water quality protection standard.

(b) If a constituent is detected and a background level is established but the ground[-]water quality standard for the constituent is not included in Section R315-308-4 or Section R315-308-5 the ground[-]water quality protection standard for that constituent shall be set according to health risk standards.

(c) If a constituent is detected and a background level is established and the established background level is higher than the value listed in Section R315-308-4, R315-308-5 or the level established according to Subsection R315-308-2(6)(b), the ground[-]water quality protection standard shall be the background concentration.

(7) The ground[-]water monitoring program [~~must~~]shall include a determination of the ground[-]water surface elevation each time ground[-]water is sampled.

(8) The owner or operator shall use a statistical method for determining whether a significant change has occurred as compared to background. The [~~D~~]director will approve [~~such a~~]the method as part of the ground[-]water monitoring plan. Possible statistical methods include:

(a) a parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method [~~must~~]shall include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each constituent;

(b) an analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method [~~must~~]shall include estimation and testing of the contrasts between each compliance well's median and the background median levels for each constituent;

(c) a tolerance or prediction interval procedure [~~in which~~]that has an interval for each constituent [~~is~~]established from the distribution of the background data, and the level of each constituent in each compliance well is compared to the upper tolerance or prediction limit;

(d) a control chart approach that gives control limits for each constituent; or

(e) another statistical test method approved by the [~~D~~]~~d~~irector.

(9) For both detection monitoring, as described in Subsection R315-308-2(5), and assessment monitoring, as described in Subsection R315-308-2(12), the [~~D~~]director may specify additional or fewer sampling and analysis events, no less than annually, depending upon the nature of the ground[-]water or the waste on a site-specific basis considering:

(a) lithology of the aquifer and unsaturated zone;

(b) hydraulic conductivity of the aquifer and unsaturated zone;

(c) ground[-]water flow rates;

(d) minimum distance between upgradient edge of the [landfill]solid waste management unit and downgradient monitoring well screen, [(]minimum distance of travel[)]; and

(e) resource value of the aquifer.

(10) The owner or operator [~~must~~]shall determine and report the ground[-]water flow rate and direction in the upper most aquifer each time the ground[-]water is sampled.

(11) If the owner or operator determines that there is a statistically significant increase over background in any parameter or constituent at any monitoring well at the compliance point, the owner or operator [~~must~~]shall:

(a) within 14 days of the completion of the statistical analysis of the sample results and within 30 days of the receipt of the sample results, enter the information in the operating record and notify the [~~D~~]director of this finding in writing. The notification [~~must~~]shall indicate what parameters or constituents have shown statistically significant changes; and

(b) immediately resample the ground[-]water in [~~all~~]each monitoring well[~~s~~], both background and downgradient, or in a subset of wells specified by the [~~D~~]director, and determine:

(i) the concentration of [~~all~~]the constituents listed in Section R315-308-4, including additional constituents that may have been identified in the approved ground[-]water monitoring plan;

(ii) if there is a statistically significant increase over background of any parameter or constituent in any monitoring well at the compliance point; and

(iii) notify the [~~D~~]director in writing within seven days of the completion of the statistical analysis of the sample results.

(c) The owner or operator may demonstrate that a source other than the solid waste disposal facility caused the contamination or that the statistically significant change resulted from error in sampling, analysis, statistical evaluation, or natural variation in ground[-]water quality. A report documenting this demonstration [~~must~~]shall be certified by a qualified ground[-]water scientist and approved by the [~~D~~]director and entered in the operating record. If a successful demonstration is made and documented, the owner or operator may continue monitoring as specified in Subsection R315-308-2(5)(b).

(12) If, after 90 days, a successful demonstration as stipulated in Subsection R315-308-2(11)(c) is not made, the owner or operator [~~must~~]shall initiate the assessment monitoring program required as follows:

(a) [~~w~~]Within 14 days of the determination that a successful demonstration is not made, take one sample from each downgradient well and analyze for [~~all~~]the constituents listed as Appendix II in 40 CFR Part 258, 2001 ed., which is [~~adopted and~~]incorporated by reference.

(b) [~~f~~]For any constituent detected from Appendix II, 40 CFR Part 258, in the downgradient wells a minimum of four independent samples from the upgradient and four independent samples from each downgradient well [~~must~~]shall be collected, analyzed, and statistically evaluated to establish background concentration levels for the constituents[~~; and~~].

(c) [~~w~~]Within 14 days of the completion of the statistical analysis of the sample results and within 30 days of the receipt of the sample results, place a notice in the operation record and notify the [~~D~~]director in writing identifying the Appendix II, 40 CFR Part 258, constituents and their concentrations that have been detected as well as background levels. The [~~D~~]director shall establish a ground[-]water quality protection standard pursuant to Subsection R315-308-2(6) for any Appendix II, 40 CFR Part 258, constituent detected in the downgradient wells.

(d) The owner or operator shall thereafter resample:

(i) at a minimum, [~~all~~]each downgradient well[~~s~~] on a quarterly basis for [~~all~~]the constituents in Section R315-308-4, or the alternative list that may have been approved as part of the permit, and for those constituents detected from Appendix II, 40 CFR Part 258;

(ii) the downgradient wells on an annual basis for [~~all~~]the constituents in Appendix II, 40 CFR Part 258; and

(iii) statistically analyze the results of [~~all~~]the ground[-]water monitoring samples.

(e) The [~~D~~]director may specify additional or fewer constituents depending upon the nature of the ground[-]water or the waste on a site specific basis considering:

(i) the types, quantities, and concentrations of constituents in wastes managed at the [~~landfill~~]solid waste management unit;

(ii) the mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the [~~landfill~~]solid waste management unit;

(iii) the detectability of indicator parameters, waste constituents, and reaction products in the ground[-]water; and

(iv) the background concentration or values and coefficients of variation of monitoring parameters or constituents in the ground[-]water.

(f) If after two consecutive sampling events, the concentrations of [~~all~~]the constituents being analyzed in Subsection R315-308-2(12)(d)(i) are shown to be at or below established background values, the owner or operator [~~must~~]shall notify the [~~D~~]director of this finding and may, upon the approval of the [~~D~~]director, return to the monitoring schedule and constituents as specified in Subsection R315-308-2(5)(b).

(13) If one or more constituents from Section R315-308-4 or the approved alternative list, or from those detected from Appendix II, 40 CFR Part 258, are detected at statistically significant levels above the ground[-]water quality protection standard as established pursuant to Subsection R315-308-2(6) in any sampling event, the owner or operator [~~must~~]shall:

(a) within 14 days of the receipt of this finding, place a notice in the operating record identifying the constituents and concentrations that have exceeded the ground[-]water quality standard. Within [~~the same time~~]that period, the owner or operator

[~~must~~]shall also notify the [~~D~~]director and [~~all~~]the appropriate local governmental and local health officials that the ground[-]water quality standard has been exceeded;

(b) characterize the nature and extent of the release by installing additional monitoring wells as necessary;

(c) install at least one additional monitoring well at the facility boundary in the direction of contaminant migration and sample this well and analyze the sample for the constituents in Section R315-308-4 or the approved alternative list and the detected constituents from Appendix II, 40 CFR Part 258; and

(d) notify [~~all~~]each person[~~s~~] who owns the land or resides on the land that directly overlies any part of the plume of contamination if contaminants have migrated off-site as indicated by sampling of wells in accordance with Subsections R315-308-2(13)(b) and (13)(c).

(e) The owner or operator may demonstrate that a source other than the solid waste disposal facility caused the contamination or that the statistically significant change resulted from error in sampling, analysis, statistical evaluation, or natural variation in ground[-]water quality. A report documenting this demonstration [must]shall be certified by a qualified ground[-]water scientist and approved by the [~~D~~]director and entered in the operating record. If a successful demonstration is made, documented and approved, the owner or operator may continue monitoring as specified in Subsection R315-308-2(12)(d) or Subsection R315-308-2(12)(e) [~~when~~]if applicable.

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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) Solid waste facilities subject to the requirements of Rules R315-301 through R315-32[~~0~~]2 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, VII, and coal combustion residual (CCR) Landfills and coal combustion residual surface impoundments;

(ii) Class I, II, III, IV, V, [~~and~~]VI, and VII 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) landtreatment disposal facilities that are regulated by Rule R315-307;[~~ and~~]

(v) waste tire storage facilities[~~-~~]; and

(vi) solid waste surface impoundments that are regulated by Rule R315-322.

(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, and R315-310-11.

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

(i) compost facilities; and

(ii) waste piles, [~~when~~]if 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 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~~]if 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 before receiving the approval required by Subsection R315-301-5(1).

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

(5) Any facility that is in operation when a permit is required for the facility by Subsection R315-310-1(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(1) may continue to operate during the permit review period but shall meet the applicable requirements of Rules R315-301 through R315-32[~~0~~]2 unless an alternative requirement has been approved by the director.

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 person for the site operation;

(b) a general description of the facility accompanied by facility plans and drawings signed and sealed by a professional engineer registered in Utah[~~and,~~] except that, unless required by the director,[~~for~~] Class IIIb, IVb, and Class VI Landfills, Class VII landfills that do not accept hazardous waste from a very small quantity generator, facilities addressed in Subsection R315-310-1(1)(b) and, waste tire storage facilities[~~, unless required by the director, the~~] are not required to have facility plans and drawings [~~shall be~~]signed and sealed by a professional engineer registered in Utah;

(c) a legal description and proof of ownership, lease agreement, or other mechanism approved by the 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 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 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 each owner 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 each property owner identified in Subsection R315-310-3(2)(a)(i); and

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

(b) The director shall send a letter to each person identified in Subsections R315-310-3(2)(a)(i) and R315-310-3(2)(a)(iii) requesting that the person reply, in writing, if the person desires to be placed on an interested 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 19-6-108(10), including information to demonstrate that the requirements of Subsection 19-6-108(11) are satisfied.

(b) After the issuance of a solid waste permit by the director, a commercial nonhazardous solid waste disposal facility shall meet the requirements of Subsection 19-6-108(3)(c) and provide documentation to the 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 R315-310-3(2)(b) are met and approval to begin construction has been granted by the 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(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).

R315-310-4. Contents of a Permit Application for a New or Expanded Class I, II, III, IV, V, [~~and~~]VI and VII Landfill Facility, or a Solid Waste Surface Impoundment as Specified.

(1) Each application for a new or expanded landfill shall contain the information required by Section R315-310-3.

(2) Each application shall also contain:

(a) the following maps shall be included in a permit application for a Class I, II, III, IV, V, [~~and~~]VI, and VII Landfill:

(i) topographic map of the landfill unit drawn to a scale of 200 feet to the inch containing five foot contour intervals [~~where~~]if the relief exceeds 20 feet and two foot contour intervals [~~where~~]if the relief is less than 20 feet, showing the boundaries of the landfill unit, ground[-]water monitoring wells, landfill gas monitoring points, and borrow and fill areas; and

(ii) the most recent full size U.S. Geological Survey topographic map, 7-1/2 minute series, if printed, or other recent topographic survey of equivalent detail of the area, showing the waste facility boundary, the property boundary, surface drainage channels, existing utilities, and structures within one-fourth mile of the facility site, and the direction of the prevailing winds[-];

(b) a permit application for a Class I, II, IIIa, IVa, [~~and~~]or V [~~I~~]landfill, and a Class VII landfill or solid waste surface impoundment that accepts hazardous waste from a very small quantity generator, shall contain a geohydrological assessment of the facility that addresses:

(i) local and regional geology and hydrology, including faults, unstable slopes and subsidence areas on site;

(ii) evaluation of bedrock and soil types and properties, including permeability rates;

(iii) depths to ground[-]water or aquifers;

(iv) direction and flow rate of ground[-]water;

(v) quantity, location, and construction of any private and public wells on the site and within 2,000 feet of the facility boundary;

(vi) tabulation of [~~all~~]the water rights for ground[-]water and surface water on the site and within 2,000 feet of the facility boundary;

(vii) identification and description of [~~all~~]the surface waters on the site and within one mile of the facility boundary;

(viii) background ground and surface water quality assessment and identification of impacts of the existing facility upon ground and surface waters from landfill leachate discharges;

(ix) calculation of a site water balance; and

(x) conceptual design of a ground[-]water and surface water monitoring system, including proposed installation methods for these devices and, [~~where~~]if applicable, a vadose zone monitoring plan;

(c) a permit application for a Class I, II, IIIa, IVa, [~~and~~]or V [~~L~~]landfill, and a Class VII landfill or solid waste surface impoundment that accepts hazardous waste from a very small quantity generator, shall contain an engineering report, plans, specifications, and calculations that address:

(i) how the facility will meet the location standards pursuant to Section R315-302-1 including documentation of any demonstration made with respect to any location standard;

(ii) the basis for calculating the facility's life;

(iii) cell design to include liner design, cover design, fill methods, elevation of final cover and bottom liner, and equipment requirements and availability;

(iv) identification of borrow sources for daily and final cover, and for soil liners;

(v) interim and final leachate collection, treatment, and disposal;

(vi) ground[-]water monitoring plan that meets the requirements of Rule R315-308;

(vii) landfill gas monitoring and control that meets the requirements of Subsection R315-303-3([~~5~~]6);

(viii) design and location of run[-]on and run[-]off control systems;

(ix) closure and post-closure design, construction, maintenance, and land use; and

(x) quality control and quality assurance for the construction of any engineered structure or feature, excluding buildings at landfills, at the solid waste disposal facility and for any applicable activity such as ground[-]water monitoring[~~,~~];

(d) a permit application for a Class I, II, III, IV, V, [~~and~~]VI, and VII Landfill, or a solid waste surface impoundment shall contain a closure plan to address:

(i) closure schedule;

(ii) capacity of the solid waste disposal facility in volume and tonnage;

(iii) final inspection by regulatory agencies; and

(iv) identification of closure costs including cost calculations and the funding mechanism[~~,~~]; and

(e) a permit application for a Class I, II, III, IV, V, [~~and~~]VI, and VII Landfill, or solid waste surface impoundment shall contain a post-closure plan to address, as appropriate for the specific [~~landfill~~]facility:

(i) site monitoring of:

(A) landfill gas on a quarterly basis until the conditions of either Subsection R315-302-3(7)(b) or [~~Subsection~~]R315-302-3(7)(c) are met;

(B) ground[-]water on a semiannual basis, or other schedule as determined by the [~~D~~]director, until the conditions of either Subsection R315-302-3(7)(b) or [~~Subsection~~]R315-302-3(7)(c) are met; and

(C) surface water, if required, on the schedule specified by the [~~D~~]director and until the [~~D~~]director determines that the monitoring of surface water may be discontinued;

(ii) inspections of the [~~landfill~~]facility by the owner or operator:

(A) for landfills that are required to monitor landfill gas, and Class II Landfills, on a quarterly basis; and

(B) for other [~~landfills~~]facilities that are not required to monitor landfill gas, on a semiannual basis;

(iii) maintenance activities to maintain cover and run[-]on and run[-]off systems;

(iv) identification of post-closure costs including cost calculations and the funding mechanism;

(v) changes to record of title as specified by Subsection R315-302-2(6); and

(vi) list the name, address, and telephone number of the person or office to contact about the facility during the post-closure period.

R315-310-5. Contents of a Permit Application for a New or Expanding Class III, IV, [~~or~~]VI, and VII Landfill, and a Solid Waste Surface Impoundment.

(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, or a solid waste surface impoundment, 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, Rule R3315-321 for a Class VII landfill, or Rule R315-322 for a solid waste surface impoundment.

(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).

R315-310-10. Contents of an Application for a Permit for a Facility in Post-Closure Care.

(1) The application for a [~~P~~]post-[~~C~~]closure [~~C~~]care permit shall contain the applicable information required in 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, and VII Landfills, demonstrate that the applicable requirements of Subsection R315-303-3([~~4~~]5) 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) for each Class VII Landfill, the applicable requirements of Section R315-321-4;

(vi) for each solid waste surface impoundment, the applicable requirements of Section R315-322-7;

(vii) the applicable requirements for groundwater monitoring according to Rule R315-308; and

(viii) 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.

KEY: solid waste management, waste disposal
Date of Last Change: June 17, 2024
Notice of Continuation: November 30, 2022
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-108; 19-6-109; 40 CFR 258

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 R315-32[~~0~~]2, 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 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.

(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 that will include appropriate conditions and limitations on operation and types of waste to be accepted at the facility.

(b) Construction may not begin before the receipt of the permit.

(2) Reserved.

(3) A permit can be granted for up to ten years by the director, except as allowed in Subsection R315-311-1(5).

(4) The owner or operator, or both, 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 R315-310-9, 180 days 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 that require financial assurance in accordance with Section R315-309-1, submit, for review and approval by the director on a schedule of no less than five years, a complete update of the financial assurance required in Rule R315-309 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 that has been 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).

KEY: solid waste management, waste disposal
Date of Last Change: January 16, 2024
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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 that does not contain garbage that has been in place for more than 90 days;

(c) a pile of material derived from waste tires if more than 1,000 passenger tire equivalents are stored at one site; and

(d) a pile of whole waste tires 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 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~~]40); 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 director on a site specific basis.

(a) No waiver of the requirements of Rule R315-314 will be granted by the 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 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 director may revoke a waiver of the Requirements of Rule R315-314 if the 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.

KEY: solid waste management, waste disposal
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R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-315. Special Waste Requirements.
R315-315-1. General Requirements.

(1) If special wastes are accepted at the facility, proper provisions shall be made for handling and disposal. These provisions may include, [~~where~~]if required and approved by the [~~D~~]director, a separate area for disposal of the wastes, designated by appropriate signs.

(2) Sections R315-315-2 through R315-315-9 are applicable to all solid waste facilities regulated by Rules R315-301 through R315-32[~~0~~]2.

R315-315-2. Asbestos Waste.

(1) Regulated asbestos-containing material to be disposed of shall be handled, transported, and disposed in a manner that will not permit the release of asbestos fibers into the air and [~~must~~]shall otherwise comply with Code of Federal Regulations, Title 40, Part 61, Section 154.

(2) No transporter or disposal facility shall accept regulated asbestos-containing material unless the waste has been adequately wetted and containerized.

(a) Regulated asbestos-containing material is adequately wetted [~~when~~]if its moisture content prevents fiber release.

(b) Regulated asbestos-containing material is properly containerized [~~when~~]if it is placed in double plastic bags of 6-mil or thicker, sealed in such a way to be leak[-]proof and air[-]tight, and the amount of void space or air in the bags is minimized. Regulated asbestos-containing material slurries [~~must~~]shall be packaged in leak[-]proof and air[-]tight rigid containers if [~~such~~]the slurries are too heavy for the plastic bag containers. Upon submittal of a request, including documentation demonstrating safety, the [~~D~~]director may authorize other proper methods of containment [~~which~~]that may include double bagging, plastic[-] lined cardboard containers, plastic[-] lined metal containers, or the use of vacuum trucks for the transport of slurry.

(c) [~~All c~~]Containers holding regulated asbestos-containing material shall be labeled with the name of the waste generator, the location where the waste was generated, and tagged with a warning label indicating that the containers hold regulated asbestos-containing material.

(3) The following standards apply to the disposal of [~~R~~]regulated [~~A~~]asbestos-[~~C~~]containing [~~M~~]material[~~:~~]:

(a) upon entering the disposal site, the transporter of the regulated asbestos-containing material shall notify the landfill operator that the load contains regulated asbestos-containing material by presenting the waste shipment record. The landfill operator will verify quantities received, sign off on the waste shipment record, and send a copy of the waste shipment record to the generator within 30 days; and

(b) upon receipt of the regulated asbestos-containing material, the landfill operator shall inspect the loads to verify that the regulated asbestos-containing material is properly contained in leak[-]proof containers and labeled appropriately. The operator shall notify the local health department and the [~~D~~]director if the operator believes that the regulated asbestos-containing material is in a condition that may cause fiber release during disposal. If the wastes are not properly containerized, and the landfill operator accepts the load, the operator shall thoroughly soak the regulated asbestos-containing material with a water spray [~~prior to~~]before unloading, rinse out the truck, and immediately cover the regulated asbestos-containing material with material [~~which~~]that prevents fiber release [~~prior to~~]before compacting the regulated asbestos-containing material in the landfill.

(c) During deposition and covering of the regulated asbestos-containing material, the operator:

(i) may prepare a separate trench or separate area of the landfill to receive only regulated asbestos-containing material, or may dispose of the regulated asbestos-containing material at the working face of the landfill;

(ii) shall place the regulated asbestos-containing material containers into the trench, separate area, or at the bottom of the landfill working face with sufficient care to avoid breaking the containers;

(iii) within 18 hours or at the end of the operating day, shall completely cover the containerized regulated asbestos-containing material with sufficient care to avoid breaking the containers with a minimum of six inches of material containing no regulated asbestos-containing material. If the regulated asbestos-containing material is improperly containerized, it [~~must~~]shall be completely covered immediately with six inches of material containing no regulated asbestos-containing material; and

(iv) shall not compact regulated asbestos-containing material until completely covered with a minimum of six inches of material containing no regulated asbestos-containing material.

(d) The operator shall provide barriers adequate to control public access. At a minimum, the operator shall:

(i) limit access to the regulated asbestos-containing material management site to no more than two entrances by gates that can be locked [~~when~~]if left unattended and by fencing adequate to restrict access by the general public; and

(ii) place warning signs at the entrances and at intervals no greater than 330 feet along the perimeter of the sections where regulated asbestos-containing material is deposited that comply with the requirements of 40 CFR 61.154(b)[~~; and~~].

(e) The operator shall close the separate trenches, if constructed, according to the requirements of Subsection R315-303-3([~~4~~]5) with the required signs in place.

R315-315-7. PCB Containing Waste.

(1) Any facility that disposes of nonhazardous waste, hazardous waste, or radioactive waste containing PCBs is regulated by Rules R315-301 through R315-32[~~0~~]2.

(2) The following wastes containing PCBs may be disposed in a permitted Class I, II, III, IV, V, or VI Landfill; permitted incinerator; permitted energy recovery facility; or a facility permitted by rule under Rule R315-318:

(a) waste, as specified by 40 CFR 761.61, containing PCBs at concentrations less than 50 ppm;

(b) PCB household waste as defined by 40 CFR 761.3; and

(c) small quantities, ten or fewer, of intact, non[-]leaking, small PCB capacitors, including capacitors from fluorescent lights x-ray machines, and other machines and test equipment.

(3) Waste containing PCBs at concentrations of 50 ppm or higher are prohibited from disposal in a landfill, incinerator, or energy recovery facility that is regulated by Rules R315-301 through R315-32[~~0~~]2, except:

(a) the following facilities may receive waste containing PCBs at concentrations of 50 ppm or higher for treatment or disposal:

(i) a facility permitted before July 15, 1993 under 40 CFR 761.70, 40 CFR 761.75 or 40 CFR 761.77; or

(ii) a facility permitted after July 15, 1993 under 40 CFR 761.70, 40 CFR 761.71, 40 CFR 761.72, 40 CFR 761.75, or 40 CFR 761.77 and approved by the director under Rules R315-301 through R315-32[~~0~~]2; or

(b) a Class I or V landfill that has a liner and groundwater monitoring or an incinerator that meets the requirements of Subsection R315-315-7(3)(a)(i) or R315-315-7(3)(a)(ii) and if approved by the director, may dispose of the following PCB wastes:

(i) PCB bulk products regulated by 40 CFR 761.62(b);

(ii) drained PCB contaminated equipment as defined by 40 CFR 761.3;

(iii) drained PCB articles, including drained PCB transformers, as defined by 40 CFR 761.3;

(iv) non[-]liquid cleaning materials remediation wastes containing PCBs regulated by 40 CFR 761.61(a)(5)(v)(A);

(v) PCB containing manufactured products regulated by 40 CFR 761.62(b)(1)(i) and 40 CFR 761.62(b)(1)(ii); or

(vi) non[-]liquid PCB containing waste, initially generated as a non[-]liquid waste, generated as a result of research and development regulated by 40 CFR 761.64(b)(2).

(c) If a unit of a permitted landfill is approved to receive PCB containing wastes under Subsection R315-315-7(3)(b), the owner or operator of the landfill:

(i) shall modify the approved groundwater monitoring plan to include the testing of the groundwater samples for PCB containing constituents at appropriate detection levels; and

(ii) shall test the leachate generated at the unit of the landfill for PCBs.

KEY: solid waste management, waste disposal
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R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-316. Infectious Waste Requirements.

R315-316-5. Infectious Waste Treatment and Disposal Requirements.

(1) Infectious waste shall be treated or disposed as soon as possible and shall be treated or disposed at a facility with a permit or other form of approval allowing the facility to treat or dispose infectious waste.

(2)(a) Any material that has been made non[-]infectious through an approved treatment method may be handled as non[-]infectious solid waste[~~, provided~~]if it is not otherwise a hazardous waste or a radioactive waste excluded from disposal in a solid waste facility by Rules R315-301 through R315-32[~~0~~]2.

(b) Except for incineration and steam sterilization, no treatment method may be used to make materials non[-]infectious without receiving earlier approval from the director.

(3) Infectious waste may be incinerated in an incinerator [~~provided~~]if the incinerator is permitted or approved under Rules R315-301 through R315-32[~~0~~]2.

(4) Infectious waste may be sterilized by heating in a steam sterilizer to make the waste non[-]infectious.

(a) The operator shall have available, and shall certify in writing that he understands, written operating procedures for each steam sterilizer, including time, temperature, pressure, type of waste, type of container, closure of container, pattern of loading, water content, and maximum load quantity.

(b) Infectious waste shall be subjected to sufficient temperature, pressure and time to inactivate Bacillus stearothermophilus spores in the center of the waste load at a 6 Log_{10} reduction or greater.

(c) Unless a steam sterilizer is equipped to continuously monitor and record temperature and pressure during the entire length of each sterilization cycle, each package of infectious waste to be sterilized shall have a temperature[-] sensitive tape or equivalent test material, such as chemical indicators, attached that will indicate if the sterilization temperature and pressure have been reached. Waste shall not be considered sterilized if the tape or equivalent indicator fails to indicate that a temperature of at least 250 degrees Fahrenheit, 121 degrees Celsius, was reached and a pressure of at least 15 psi was maintained during the process.

(d) Each sterilization unit shall be evaluated for effectiveness with spores of B. stearothermophilus at least once each 40 hours of operation or each week, whichever is less frequent.

(e) A written log for each load shall be maintained for each sterilization unit that shall contain at a minimum:

(i) the time of day and the date of each load and the operator's name;

(ii) the amount and type of infectious waste placed in the sterilizer; and

(iii) the temperature, pressure, and duration of treatment.

(5)(a) Alternative treatment methods may be approved on a site-specific basis if the director finds the proposed alternative treatment method makes the material non[-]infectious.

(b) The determination shall be based on the results of laboratory tests, submitted by the person proposing the use of the treatment method, meeting the following requirements:

(i) the laboratory tests shall be conducted:

(A) by qualified laboratory personnel;

(B) using recognized microbial techniques;

(C) on samples that have been inoculated with the test organisms, then subjected to the proposed treatment method and processed in an identical way to the treatment process being proposed for approval; and

(ii) the results of the tests shall document that the proposed treatment method inactivates:

(A) vegetative bacteria - Staphylococcus aureus, [~~(~~]ATCC 6538[~~)~~], or Pseudomonas aeruginosa, [~~(~~]ATCC 15442[~~)~~], at a 6 Log_{10} reduction or greater, a 99.9999% reduction or greater of the organism population;

(B) fungi - Candida albicans, [~~(~~]ATCC 18804[~~)~~], Penicillium chrysogenum, [~~(~~]ATCC 24791[~~)~~], or Aspergillus niger at a 6 Log_{10} reduction or greater;

(C) viruses - Polio 2, Polio 3, or MS-2 Bacteriophage, [~~(~~]ATCC15597-B1[~~)~~], at a 6 Log_{10} reduction or greater;

(D) parasites - Cryptosporidium spp. oocysts or Giardia spp. cysts at a 6 Log_{10} reduction or greater;

(E) mycobacteria - Mycobacterium terrae or Mycobacterium phlei at a 6 Log_{10} reduction or greater; and

(F) Bacterial spores - Bacillus stearothermophilus spores, [~~(~~]ATCC 7953[~~)~~], or Bacillus subtilis spores, [~~(~~]ATCC 19659[~~)~~], at a 4 Log_{10} reduction or greater, a 99.99% reduction or greater of the organism population.

(iii) The director shall review the submitted materials and reply in writing within 30 days of the receipt of the treatment studies.

(6) Infectious waste may be discharged to a sewage treatment system that provides secondary treatment of waste but only if the waste is liquid or semi-solid and if approved by the operator of the sewage treatment system.

(7) Infectious waste may be disposed in a permitted Class I, II, or V Landfill. Upon entering the landfill, the transporter of infectious waste shall notify the landfill operator that the load contains infectious waste. The landfill operator shall abide by the following procedures in the disposition and covering of infectious waste:

(a) place the infectious waste containers in the working face with sufficient care to avoid breaking them;

(b) completely cover the infectious waste immediately with a minimum of 12 inches of earth or waste material containing no infectious waste; and

(c) not compact the infectious waste until completely covered with 12 inches of earth or waste material containing no infectious waste.

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R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-317. Other Processes, Variances, Violations, and Petition for Rule Change.
R315-317-1. Other Processes, Methods, and Equipment.

Processes, methods, and equipment other than those specifically addressed in Rules R315-301 through R315-32[~~0~~]2 will be considered on an individual basis by the [~~D~~]director upon submission of evidence of adequacy to meet the minimum standards of performance to protect human health and the environment as required in Section R315-303-2.

R315-317-3. Violations, Orders, and Hearings.

(1) When[~~ever~~] the [~~D~~]director or his duly appointed representative determines that any person is in violation of any applicable approved solid waste operation plan or permit or the requirements of Rules R315-301 through R315-32[~~0~~]2, the [~~D~~]director may cause written notice of violation to be served upon the alleged violators. The notice shall specify the provisions of the plan, permit, or rules alleged to have been violated and the facts alleged to constitute the violation. The [~~D~~]director may issue an order that necessary corrective action be taken within a reasonable time or may request the attorney general or the county attorney in the county [~~in which~~]where the violation takes place to bring a civil action for injunctive relief and enforcement of the permit requirements or the requirements of Rules R315-301 through R315-32[~~0~~]2.

(2) Any order issued pursuant to Subsection R315-317-3(1) shall become final unless, within 30 days after the order is issued, the person to whom the order is addressed challenges the order as provided in Section 19-1-301 and the Utah Administrative Procedures Act, Title 63G, Chapter 4 and shall be governed by [~~UAC~~]Rule R305-7.

KEY: solid waste management, waste disposal
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R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-318. Permit by Rule.
R315-318-1. General Requirements.

(1) Any facility that disposes of solid waste, including an incinerator, may be permitted by rule upon application to the [~~D~~]director if the [~~D~~]director determines the facility is regulated by [~~F~~]federal or state agencies [~~which~~]that have regulations or rules as stringent as, or more stringent than, Rules R315-301 through R315-32[~~0~~]2.

(2) No permit by rule may be granted to a facility that began receiving waste after July 15, 1993 without application to the [~~D~~]director.

(3) Any facility permitted by rule is not required to [~~obtain~~]get a permit as required by Subsections R315-301-5(1) and [~~Subsection~~]R315-310-1(1) but may be required to follow operational practices, as determined by the [~~D~~]director, to minimize risk to human health or the environment.

(4) In no case may a facility operating under a permit by rule approved by the [~~D~~]director conduct disposal operations that are in violation of the Utah Solid and Hazardous Waste Act or Rules R315-301 through R315-32[~~0~~]2.

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

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-321. Class VII Exploration and Production Waste Landfill Requirements.
R315-321-1. Applicability.

(1) The requirements of Rule R315-321 apply to each Class VII Facility designed and operated as a landfill as defined in Subsection R315-301-2(41). Each unit in a Class VII Facility that qualifies as a solid waste surface impoundment shall meet the applicable standards specified in Rule R315-322.

R315-321-2. Class VII Landfill Standards for Performance.

(1) Each Class VII landfill shall meet the standards for performance as specified in Section R315-303-2.

R315-321-3. Class VII Landfill Location Standards.

(1) A new Class VII landfill or the lateral expansion of an existing Class VII landfill shall be subject to the following location standards:

(a) the ecologically and scientifically significant natural area standards of Subsection R315-302-1(2)(a)(ii); and

(b) the standards found in Subsections R315-302-1(2)(c) through R315-302-1(2)(f).

(2) An existing Class VII landfill shall be subject to the following location standards:

(a) the ecologically and scientifically significant natural area standards of Subsection R315-302-1(2)(a)(ii);

(b) the floodplain standards of Subsection R315-302-1(2)(c)(ii); and

(c) the standards listed in Subsection R315-321-3(1) in effect at an existing facility to protect municipal drinking water, wetlands, and groundwater, before applying for a permit, shall be maintained for the life of the facility unless otherwise determined by the director.

(3) Location Standards Exemptions.

(a) Except for the standards listed in Subsection R315-321-3(3)(b), the director may grant an exemption from any location standard of Subsection R315-302-1(2) for a Class VII landfill, on a site-specific basis if the director determines that the exemption will cause no adverse impacts to human health or the environment. If an exemption is granted, the director may require that the facility have more stringent design, construction, monitoring program, or operational practice to protect human health or the environment.

(b) No exemptions shall be given for the following location standards at a Class VII landfill:

(i) ecologically and scientifically significant natural area standards of Subsection R315-302-1(2)(a)(ii);

(ii) floodplain standards, unless the exemption meets the criteria of Subsection R315-302-1(2)(c)(ii);

(iii) the location standards for wetlands for a new facility or lateral expansion of an existing facility, unless the exemption meets the criteria of Subsection R315-302-1(2)(d); or

(iv) the location standards for groundwater for a new facility or lateral expansion of an existing facility that accepts hazardous waste from very small quantity generators as defined in Subsection R315-260-10(c), unless the exemption meets the criteria of Subsection R315-302-1(2)(e)(vi).

R315-321-4. Class VII Landfill Requirements.

(1) Each Class VII landfill shall meet the following applicable requirements, as determined by the director:

(a) the plan of operation requirements of Subsection R315-302-2(2), except plans to control wind-blown litter and disease vectors as found in Subsections R315-302-2(2)(h) and R315-302-2(2)(k) are not required;

(b) the recordkeeping requirements of Subsections R315-302-2(3)(a), R315-302-2(3)(b)(i), R315-302-2(3)(b)(iii), R315-302-2(3)(b)(iv), and R315-302-2(3)(b)(vi);

(c) the reporting requirements of Subsection R315-302-2(4);

(d) the inspection requirements of Subsection R315-302-2(5); and

(e) for Class VII facilities with landfill cells that do not accept hazardous waste from a very small quantity generator as defined by Subsection R315-260-10(c), submit details of controls and employee training programs used to prevent the acceptance of hazardous waste.

(2) Standards for Design.

(a) The owner or operator of a Class VII landfill shall design the facility to control storm water run-on or run-off as specified in Subsections R315-303-3(1)(c) and R315-303-3(1)(d).

(b) Any container or tank storage area used to manage waste containing free liquids shall have secondary containment that:

(i) is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed;

(ii) is sloped or otherwise designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation;

(iii) has sufficient capacity to contain 10% of the volume of containers or the volume of the largest container, whichever is greater. Containers that do not contain free liquids need not be considered in this determination;

(iv) is designed and operated to prevent run-on into the containment system unless the system has sufficient excess capacity in addition to that required in Subsection R315-322-4(3)(b)(iii) to contain any run-on that might enter the system; and

(v) is operated to remove spilled or leaked waste and accumulated precipitation from the sump or collection area in as timely a manner as is necessary to prevent overflow of the collection system.

(c) The owner or operator of a Class VII landfill shall comply with the requirements relating to the management of high liquid wastes set forth in Subsection R315-303-3(2).

(d) The owner or operator of a Class VII landfill shall design the facility to meet the requirements of Subsection R315-303-3(8)(a), R315-303-3(8)(c), R315-303-3(8)(d), and additional requirements of Subsection R315-303-3(8) as determined by the director.

(i) In addition to the signage requirements of Subsection R315-303-3(8)(d), the owner or operator of a Class VII landfill shall erect a sign displaying the facility operator, and for those located in Duchesne County or Uintah County, the location using the Public Land Survey System.

(3) Groundwater Monitoring.

(a) The owner or operator of a Class VII landfill that receives hazardous waste from a very small quantity generator as defined in Subsection R315-260-10(c) shall prevent contamination of groundwater by either:

(i) monitoring the groundwater beneath the facility as required by Rule R315-308; or

(ii) applying for and receiving approval for a groundwater alternative or waiver according to Subsection R315-302-1(2)(e)(vi).

(4) Standards for Operation.

(a) Each Class VII landfill shall meet the maintenance and operation standards of Section R315-303-4 except:

(i) daily cover requirements of Subsection R315-303-4(4) upon demonstration that uncovered waste is not a threat to human health, the environment, wildlife, or other receptors; and

(ii) recycling container requirements of Subsection R315-303-4(6).

(b) Class VII Facilities may receive and manage the following types of wastes and materials:

(i) exploration and production waste;

(ii) nonhazardous materials received in regular quantities used for the absorption of free liquids and stabilization in connection with the disposal of E&P Waste, such as ash, saw dust, gypsum, and nonhazardous petroleum contaminated soils;

(iii) nonhazardous solid waste generated incidental to oil and gas exploration and production and related operations; and

(iv) hazardous waste from very small quantity generators as defined in Subsection R315-260-10(c) generated incidental to oil and gas exploration and production and related operations.

(5) Closure and Post-Closure.

(a) Each Class VII landfill shall meet the applicable general requirements for closure and post-closure care found in Subsection R315-302-2(6) and Section R315-302-3, as determined by the director.

(b) If a Class VII landfill is already subject to the closure and post-closure requirements of another federal or state agency that are as stringent as the requirements specified in Subsection R315-321-4(5), the director may exempt the facility from the closure requirements of Subsection R315-321-4(5).

(c) The owner or operator of a Class VII landfill shall meet the closure requirements of Subsection R315-303-3(5).

(d) Upon approval from the director that the facility has been closed in accordance with an approved closure plan, the owner or operator of a Class VII landfill shall apply for a post-closure care permit in accordance with R315-310-10.

(e) Post-closure care shall continue until all waste disposal units at the facility have stabilized and the finding detailed in Subsection R315-302-3(7)(c) is made.

(6) Financial Assurance.

(a) The owner or operator of each Class VII landfill shall establish financial assurance as required by Section R315-309.

(b) If the owner or operator of a Class VII landfill has financial assurance, in effect and active, that covers the costs of closure and post-closure care of the facility as required by another federal or state agency that is as stringent as the requirements of Section R315-309, the director may exempt the facility from the financial assurance requirements of Section R315-309.

(7) Permit Requirements.

(a) The owner or operator of a Class VII landfill shall apply for and receive a permit to operate by meeting the applicable requirements of Rule R315-310 and is subject to the requirements of Rule R315-311.

(8) Temporary Permits.

(a) The owner or operator of an existing exploration and production facility as defined in Subsection R315-301-2(22)(a) may apply for a temporary permit from the director by submitting a complete application and any other relevant information required by the director. If the director determines that a temporary permit is protective of human health and the environment a temporary permit may be issued to facilitate the owner's or operator's good faith transition from regulation under Rule R649-9 to regulation under Rules R315-321 or R315-322. The temporary permit may contain any conditions the director determines are warranted under the circumstances.

(b) The owner or operator of an existing Class VII facility shall submit an application for a temporary permit to the director no less than 30 days before October 1, 2024.

(c) The owner or operator of an existing exploration and production facility applying for a temporary permit under Subsection R315-321-4(8) shall provide financial assurance in an amount determined appropriate by the director. In calculating the appropriate financial assurance amount, the director may, but is not required to, rely on bond calculations performed by the Division of Oil, Gas, and Mining.

(d) Except as otherwise required by the director, a temporary permit application for an existing exploration and production facility shall be exempt from the applicable requirements of Rules R315-310.

(e) Temporary permits issued under Subsection R315-321-4(8) shall be subject to enforcement by the director, pursuant to Sections 19-6-112 to 19-6-113, Section R315-317-3, and other applicable procedures.

KEY: solid waste management, solid waste disposal
Date of Last Change:
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-108; 19-6-109; 40 CFR 257

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-322. Solid Waste Surface Impoundment Requirements.
R315-322-1. Applicability.

(1) Unless otherwise determined by the director, the standards set forth in Rule R315-322 shall apply to any solid waste surface impoundment, whether operated in connection with a solid waste management facility or on a stand-alone basis.

R315-322-2. Solid Waste Surface Impoundment Location Standards.

(1) A new solid waste surface impoundment or the expansion of an existing solid waste surface impoundment shall meet the location standards of Subsection R315-302-1(2).

(2) An existing solid waste surface impoundment shall be subject to the following location standards:

(a) the ecologically and scientifically significant natural area standards of Subsection R315-302-1(2)(a)(ii);

(b) the floodplain standards of Subsection R315-302-1(2)(c)(ii); and

(c) the standards listed in Subsection R315-302-1(2) in effect at an existing facility for the purpose of protecting municipal drinking water, wetlands, and groundwater, before applying for a permit, shall be maintained for the life of the facility unless otherwise determined by the director.

(3) Location Standards Exemptions.

(a) Except for the standards listed in Subsection R315-322-3(3)(b), the director may grant an exemption from any location standard of Subsection R315-302-1(2) for a solid waste surface impoundment, on a site-specific basis if the director determines that the exemption will cause no adverse impacts to human health or the environment. If an exemption is granted, the director may require that the solid waste surface impoundment have a more stringent design, construction, monitoring program, or operational practices to protect human health or the environment.

(b) No exemptions shall be given for the following location standards at a solid waste surface impoundment:

(i) ecologically and scientifically significant natural area standards of Subsection R315-302-1(2)(a)(ii);

(ii) floodplain standards, unless the exemption meets the criteria of Subsection R315-302-1(2)(c)(ii);

(iii) the location standards for wetlands for a new or lateral expansion of an existing facility, unless the exemption meets the criteria of Subsection R315-302-1(2)(d); or

(iv) the location standards for groundwater for a new or lateral expansion of an existing solid waste surface impoundment that accepts hazardous waste from a very small quantity generator as defined in Subsection R315-260-10(c), unless the exemption meets the criteria of Subsection R315-302-1(2)(e)(vi)

R315-322-3. Solid Waste Surface Impoundment General Requirements.

(1) Each new solid waste surface impoundment shall meet the following applicable requirements, as determined by the director:

(a) The plan of operation requirements of Subsection R315-302-2(2), except plans to control wind-blown litter and disease vectors as found in Subsections R315-302-2(2)(h) and R315-302-2(2)(k) are not required.

(b) For solid waste surface impoundments that use enhanced evaporation systems, a plan to control overspray, including corrective actions to cleanup waste shall be included in the plan of operation.

(c) The recordkeeping requirements of Subsections R315-302-2(3)(a), R315-302-2(3)(b)(i), R315-302-2(3)(b)(iii), R315-302-2(3)(b)(iv), and R315-302-2(3)(b)(vi).

(d) The reporting requirements of Subsection R315-302-2(4).

(e) The inspection requirements of Subsection R315-302-2(5).

(2) Permit Application.

(a) The director may issue a temporary permit for an existing Class VII solid waste surface impoundment to facilitate the owner's or operator's good faith transition from regulation under R649-9 to regulation under Rule R315-322 according to the requirements of Subsection R315-321-4(8).

(b) The owner or operator of any solid waste surface impoundment shall apply for and get a permit to operate by meeting the applicable requirements of Rule R315-310.

(c) The permit application shall include detailed construction and installation diagrams of the surface impoundment, including details of side slopes, liners, surface impoundment storage capacity, leak detection systems, dikes or levees, wind fences, piping, enhanced evaporation systems with justification, water treatment systems and tanks.

(d) Contingencies for releases shall be included in the plan required by Subsection R315-302-2(2)(f) and shall include procedures for repair of liners as specified in Subsection R315-322-5(12)(d).

(e) The owner or operator of a solid waste surface impoundment that does not accept hazardous waste from a very small quantity generator as defined by Subsection R315-260-10(c), shall submit details of controls and employee training programs used to prevent the acceptance of hazardous waste.

R315-322-4. Solid Waste Surface Impoundment Standards for Performance.

(1) Each solid waste surface impoundment shall meet the standards for performance as specified in Section R315-303-2.

(2) The owner or operator of a Class VII solid waste surface impoundment shall plan for and implement appropriate measures to protect waterfowl and other wildlife receptors that may reasonably be expected to come into contact with exploration and production wastes managed in Class VII solid waste surface impoundments.

(3) The solid waste surface impoundment shall be fenced and maintained to deter access by livestock and wildlife and, if determined necessary by the director, equipped with flagging, netting, or other measures, to deter entry by birds and waterfowl.

R315-322-5. Standards for Design.

(1) Surface impoundments shall be designed, maintained, and operated to meet the following requirements found in Section R315-322-5.

(2) Surface impoundments shall be designed for 55 acre-feet of water or less, unless otherwise approved by the director.

(3) Surface impoundment levees shall be constructed so that the inside grade of the levee is no steeper than 3:1 and the outside grade no steeper than 2:1.

(a) The top of the levee shall have a 2% cross slope toward the surface impoundment and be of sufficient width to allow for adequate anchoring of liner components and compaction.

(b) Vertical height of the levees shall not exceed 25% of the total vertical depth of the surface impoundment.

(4) Unloading structures.

(a) The owner or operator shall submit detailed construction and installation diagrams of each unloading structure and an explanation of methods that control flow and prevent undesired waste from entering the solid waste surface impoundment, including hydrocarbons.

(b) Unloading structures shall be designed, maintained, and operated to adequately process the waste received each day.

(c) Unloading structures shall be designed with a leak detection system unless determined unnecessary by the director.

(5) The design, construction, and operation of any dewatering or other stabilization or treatment technique used in association with a solid waste surface impoundment shall comply with the requirements in Subsection R315-303-3(2)(b).

(6) Solid waste surface impoundments and associated enhanced evaporation systems shall be designed to prevent surface or subsurface discharge of water, and detailed information shall be submitted to demonstrate control features.

(a) Enhanced evaporation systems shall be located no closer than 100 feet from a facility's exterior boundary.

(7) Any container or tank storage area used to manage waste containing free liquids shall have secondary containment that:

(a) is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed;

(b) is sloped or otherwise designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation;

(c) has sufficient capacity to contain 10% of the volume of containers or the volume of the largest container, whichever is greater. Containers that do not contain free liquids need not be considered in this determination;

(d) is designed and operated to prevent run-on into the containment system unless the system has sufficient excess capacity in addition to that required in Subsection R315-322-5(7)(c) to contain any run-on that might enter the system; and

(e) is operated to remove spilled or leaked waste and accumulated precipitation from the sump or collection area in as timely a manner as is necessary to prevent overflow of the collection system.

(8) The owner or operator of a solid waste surface impoundment shall design the facility to control storm water run-on and run-off as specified in Subsections R315-303-3(1)(c) and R315-303-3(1)(d).

(9) The owner or operator of a solid waste surface impoundment shall design the impoundment to meet the applicable requirements of Subsection R315-303-3(8), except that the standards for groundwater protection are found in Subsection R315-322-5(11).

(a) In addition to the signage requirements of Subsection R315-303-3(8)(d), the owner or operator of Class VII solid waste surface impoundment shall erect a sign displaying the facility operator, and for those located in Duchesne County or Uintah County, the location using the Public Land Survey System.

(10) The owner or operator of a solid waste surface impoundment shall provide design drawings and as built drawings signed and sealed by a professional engineer according to Subsection R315-303-3(7).

(11) Groundwater Protection.

(a) The owner or operator of a solid waste surface impoundment shall comply with the groundwater standard for performance in Subsection R315-303-2(1) and shall be subject to the corrective action requirements of Section R317-6-6.15 as applicable.

(b) The owner or operator of a new solid waste surface impoundment or lateral expansion of an existing solid waste surface impoundment shall either:

(i) meet the groundwater alternative or waiver found in Subsection R315-302-1(2)(e)(vi);

(ii) monitor the groundwater beneath the impoundment as specified in Rule R315-308; or

(iii) install and maintain leak detection equipment and conduct monitoring according to Subsection R315-322-5(13).

(c) The owner or operator of an existing solid waste surface impoundment shall not receive hazardous waste from a very small quantity generator unless the requirements of Subsection R315-322-5(11)(a) are met and no groundwater assessment or corrective action measures are required under Section R317-6-6.15.

(d) The owner or operator of an existing solid waste surface impoundment shall maintain existing groundwater monitoring wells or leak detection equipment and associated monitoring programs for the life of the facility, unless otherwise determined by the director.

(i) Groundwater monitoring wells, leak detection equipment, associated monitoring programs, or other groundwater monitoring controls may be required for an existing solid waste surface impoundment as determined by the director.

(12) Synthetic Liners.

(a) Materials used in lining solid waste surface impoundments shall be impervious and resistant to weather, tears and punctures, sunlight, and substances that might be contained in the waste including hydrocarbons, aqueous acids, alkalies, salt, fungi, or other produced water.

(b) If rigid materials are used as a liner, leak proof expansion joints shall be provided, or the material shall be of sufficient thickness and strength to withstand expansion, contraction, and settling movements in the underlying earth, without cracking.

(c) Information regarding the type, thickness, strength, and life span of materials to be used for lining the surface impoundment and the method of installation shall be included in the quality control and quality assurance construction plan required by Subsection R315-310-4(2)(c)(x).

(d) The owner or operator shall submit procedures to the director for repair of the liner, should leakage occur. Repair procedures shall be reviewed and signed by a professional engineer and may include repair procedures prepared by the liner manufacturer. Repair procedures shall include:

(i) methods used to remove liquids and solids as necessary from the surface impoundment;

(ii) management of waste removed;

(iii) location of the leak;

(iv) repair of the leak;

(v) testing of the repair; and

(vi) procedures for resuming operations.

(e) Solid waste surface impoundments following the groundwater monitoring requirements of Subsection R315-322-5(11)(b)(ii) shall either meet the liner design requirements of Subsection R315-303-3(4), or the dual liner design standards of Subsection R315-322-5(12)(f).

(f) Solid waste surface impoundments following the leak detection monitoring requirements of Subsection R315-322-5(11)(b)(iii) shall be designed with two synthetic liners, an upper primary and lower secondary liner, with a leak detection system between them. Synthetic liners shall be installed according to the manufacturer's instructions.

(i) The upper primary liner shall be impervious with a hydraulic conductivity no greater than 1×10^{-7} cm/sec and constructed with a minimum 60-mil HDPE or equivalent liner approved by the director.

(ii) The lower secondary liner shall be impervious and constructed with a minimum 40-mil HDPE or equivalent liner approved by the director.

(iii) The leak detection system between the upper primary and lower secondary liners shall be constructed with a HDPE geonet or equivalent liner to provide separation between the upper primary and lower secondary liners and to enable flow of any leaked fluid through the upper primary liner to the leak detection observation sump.

(13) Leak Detection System.

(a) The point of compliance shall be the space between the upper primary and lower secondary liners. The owner or operator shall submit detailed construction and installation diagrams for the leak detection system to the director.

(b) The leak detection design shall include a drainage and collection system placed between the upper primary and lower secondary liners and sloped to facilitate the earliest possible detection of a leak.

(c) The leak detection design shall include a vertical riser outside the dike allowing direct visual inspection of the sump from the surface. The sump shall be designed:

(i) to be large enough in diameter to allow for visual observation and sampling of any fluid, and extend to the lowest elevation of the lower secondary liner of the solid waste surface impoundment;

(ii) with a removable top for the sump riser that prevents entry of fluids; and

(iii) with leak detection piping capable of withstanding destruction resulting from contact with waste, structural loading from stresses and disturbances from overlying waste and cover materials, equipment operation, expansion or contraction, and facilitate clean-out maintenance.

(d) Leak detection monitoring shall be performed at each riser when liquid waste is present inside of the impoundment, and shall be:

(i) performed with no greater than five days between monitoring surveys, and on each day that waste is received in the impoundment; and

(ii) recorded in the facility operating record.

(e) Upon detecting a leak, the owner or operator of a solid waste surface impoundment shall:

(i) provide verbal notification to the director within 24 hours of detection;

(ii) submit written notification to the director within five days of detection; and

(iii) submit a written schedule for conducting repair within 15 days of detection, including the steps required by the repair plan specified in Subsection R315-322-5(12)(d).

R315-322-6. Standards for Operation.

(1) Each surface impoundment shall meet the operation and maintenance standards of Section R315-303-4 except:
(i) daily cover requirements of Subsection R315-303-4(4) and recycling container requirements of Subsection R315-303-4(6).
(2) Each solid waste surface impoundment shall be operated with a minimum of three feet of freeboard, unless otherwise determined by the director.
(3) The director may permit an owner or operator of a solid waste surface impoundment to sell, reclaim, recycle, or reuse materials in connection with its operations, as provided in the plan of operation.
(4) Oil Separation. Class VII solid waste surface impoundments shall be operated to separate oil from the produced water fraction of exploration and production waste, and owners and operators shall not discharge the oil into the impoundment.
(a) Hydrocarbon accumulation, other than de minimis quantities, on a Class VII solid waste surface impoundment is prohibited. Any hydrocarbon accumulation shall be removed within 24 hours of the time accumulation began.
(5) Overspray including foam from sprinklers, wind, or enhanced evaporation systems, outside of lined areas shall be prevented.
(a) Operation of enhanced evaporation systems is prohibited when wind speeds at the unit are equal to or greater than 15 mph.
(i) If overspray outside of the lined area occurs, it shall be corrected and cleaned up to soil background levels immediately, or as soon as wind speeds allow.
(ii) Sampling and analysis of soils suspected to be contaminated from overspray may be required by the director.

R315-322-7. Closure and Post-Closure.
(1) Financial Assurance. The owner or operator of each solid waste surface impoundment shall establish financial assurance as required by Rule R315-309.
(a) If the owner or operator of a solid waste surface impoundment has financial assurance, in effect and active, that covers the costs of closure and post-closure care of the surface impoundment as required by another federal or state agency that is as stringent as the requirements of Rule R315-309, the director may exempt the solid waste surface impoundment from the financial assurance requirements of Rule R315-309.
(2) Upon closure, the owner or operator of each solid waste surface impoundment shall:
(a) excavate, remove, and dispose of any liners, sludges, stained soils, and other solid wastes associated with the solid waste surface impoundment for disposal in a permitted solid waste management facility and install soil and seed according to Subsection R315-303-3(5)(a)(ii); or
(b) get a permit from the director to dispose of residual nonhazardous solid wastes associated with the solid waste surface impoundment on site, in compliance with Subsection R315-303-3(5) relating to closure requirements; or
(c) a combination of Subsections R315-322-7(2)(a) and R315-322-7(2)(b), as approved by the director; and
(d) make the required recording with the county recorder specified in Subsection R315-302-2(6).
(3) The post-closure care and monitoring shall be for five years or as long as determined necessary by the director, and shall consist of:
(i) the maintenance of any monitoring equipment and sampling and testing schedules as required by the director; and
(ii) inspection and maintenance of any cover material, including repair as soon as possible of any erosion channels, and reseeding as required by the director.

KEY: solid waste management, solid waste disposal
Date of Last Change:
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-108; 40 CFR 257

WASTE MANAGEMENT AND RADIATION CONTROL BOARD
Executive Summary
Final Adoption of Changes
UAC R313-17 and UAC R313-24
July 11, 2024

What is the issue before the Board?	Approval from the Board to proceed with final adoption of proposed changes to UAC R313-17 and UAC R313-24 to provide clarity around the environmental assessment process and make updates that are consistent with the Conference of Radiation Control Program Directors (CRCPD) Suggested State Regulations. Neither of these rules have equivalents in federal regulations.
What is the historical background or context for this issue?	At the Board meeting on May 9, 2024, the Board approved the proposed changes to UAC R313-17 and UAC R313-24 to be filed with the Office of Administrative Rules for publication in the *Utah State Bulletin*. The proposed changes were published in the June 1, 2024, issue of the *Utah State Bulletin*. Selected pages from the June 1, 2024, *Utah State Bulletin* showing the publication of the proposed changes follow this Executive Summary. The public comment period for this rulemaking ended on July 1, 2024. Comments were received and the Division has responded to all comments.
What is the governing statutory or regulatory citation?	The Board is authorized under Subsections 19-3-103.1 and 19-3-104 to make rules to meet the requirements of federal law relating to radiation control to ensure the radiation control program is qualified to maintain primacy from the federal government and that are necessary to implement the provisions of the Radiation Control Act. The rule changes also meet existing DEQ and state rulemaking procedures.
Is Board action required?	Yes. Board approval for final adoption of rule changes is necessary.
What is the Division Director's recommendation?	The Director recommends the Board approve final adoption of the proposed changes to UAC R313-17 and UAC R313-24 as published in the June 1, 2024, *Utah State Bulletin* and set an effective date of July 15, 2024.
Where can more information be obtained?	Please contact Tom Ball by email at tball@utah.gov or by phone at 385-454-5574.

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Nancy L. Lancaster, Managing Editor

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Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-957-7110. Additional rulemaking information and electronic versions of all administrative rule publications are available at https://rules.utah.gov/.

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)* of the same volume and issue number. The *Digest* is available by e-mail subscription or online. Visit https://rules.utah.gov/ for additional information.

Office of Administrative Rules, Salt Lake City 84114

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

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TABLE OF CONTENTS

date of termination of coverage is the closing date for the real estate transaction.

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

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

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

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

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

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

R311-206-11. Environmental Assurance Fee Rebate.

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

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

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

(a) calculated on a facility basis;

(b) valid for the calendar year;

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

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

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

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

(b) meet one of the following:

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

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

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

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

(b) meet one of the following:

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

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

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

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

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

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

KEY: petroleum, underground storage tanks
Date of Last Change: 2024[~~April 14, 2023~~]
Notice of Continuation: March 8, 2022
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-403; 19-6-410.5; 19-6-428

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R313-17**	**Filing ID: 56501**

Agency Information

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

General Information

2. Rule or section catchline:
R313-17. Administrative Procedures
3. Purpose of the new rule or reason for the change:
These rule changes are being proposed to clarify the types of licensing actions that are major licensing actions and thus require an environmental assessment.

These changes make updates that are consistent with the Conference of Radiation Control Program Directors (CRCPD) Suggested State Regulations and Utah's agreement with the NRC.

4. Summary of the new rule or change:

Changes are made to Subsection R313-17-2(1)(a) to correct licensing categories so that they are consistent with federal regulations.

Changes are made to Subsection R313-17-2(1)(a)(F) to clarify that changes to engineering design, construction, or process controls that are likely to significantly impact public health, public safety or the environment are included in activities that the director shall give public notice regarding.

Changes are made to Subsection R313-17-2(1)(a)(I) to make the requirement clearer.

Changes are made to Subsection R313-17-2(1)(a)(J) to clarify that the director shall give public notice and an opportunity to comment on a licensing action that would allow for possession or use of any matter, other than natural or native ore, that will be processed primarily for its source material content in a licensed uranium or thorium mill.

Changes are made to Subsections R313-17-2(2) through (5) to clarify the public notice and comment process used by the director.

Section R313-17-3 is given a new title, and the language is amended to clarify that review of licensing and permitting actions are governed by Rule R305-7 and Section 19-1-301.5 of the Utah Code.

Additionally, the Division of Waste Management and Radiation Control, Radiation is correcting formatting and typographical errors found in the rule.

Fiscal Information

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

A) State budget:

There are no anticipated costs or savings to the state budget based on the amendments to this rule.

The amendments do not add any new processes or requirements for state agencies, nor do they remove any existing processes or requirements.

B) Local governments:

There are no anticipated costs or savings to local governments based on the amendments to this rule.

The amendments do not add any new processes or requirements that local governments would need to comply with, nor do they remove any existing processes or requirements.

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

There is 1 small business in Utah that must comply with this regulation. However, it is not anticipated that the changes being made to thia rule will result in any cost or savings to this business because they do not add any new requirements to this rule, nor do they remove any existing requirements.

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

There are 4 non-small businesses in Utah that must comply with this regulation. However, it is not anticipated that the changes being made to this rule will result in any cost or savings to any of these businesses because they do not add any new requirements to this rule, nor do they remove any existing requirements.

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

It is not anticipated that the changes being made to this rule will result in any cost or savings to any persons other than small businesses, non-small businesses, state, or local government entities because there aren't any of these entities in Utah that are affected by these rule changes.

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

There are no compliance costs for affected persons due to this rule amendment. The changes simply add clarification to requirements so that entities that must comply with the rules can do so in an effective and efficient manner and will understand the processes and procedures being used by the agency.

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

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	$0	$0	$0
Local Governments	$0	$0	$0

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

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

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

Citation Information

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

Subsection 19-3-104(4)	Section 19-1-301	Section 19-1-301.5

Public Notice Information

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

A) Comments will be accepted until:	07/01/2024

9. This rule change MAY become effective on:	07/15/2024

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

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	**Date:**	05/09/2024

R313. Environmental Quality, Waste Management and Radiation Control, Radiation.
R313-17. Administrative Procedures.
R313-17-2. Public Notice and Public Comment Period.

(1) The [~~D~~]director shall give public notice of and provide an opportunity to comment on the following:

(a) A proposed major licensing action for license categories [~~2b~~](2)(b) and (c), [~~4a, b, c, d~~](4)(a) through (c) and (6) identified in Section R313-70-7[~~.~~];

(i) [~~M~~]major licensing actions include:

(A) [~~P~~]pending issuance of a new license[~~,~~];

(B) [~~P~~]pending issuance of a license renewal[~~,~~];

(C) [~~P~~]pending approval of a license termination[~~,~~];

(D) [~~A~~]an increase in process, storage, or disposal capacity[~~,~~];

(E) [~~A~~]a geographic expansion;[~~,~~]

(F) [~~A~~]a change in engineering design, construction, or process controls that [~~will more than~~]is likely to:

(I) significantly impact public health, public safety or the environment as compared to impacts previously evaluated; or

(II) cause an individual to receive a higher total effective dose equivalent; or

(III) increase the annual quantity of radioactive effluents released to the environment[~~,~~];

(G) [~~A~~]a decrease in environmental monitoring or sampling frequency[~~,~~];

(H) [~~P~~]pending approval of reclamation, decontamination or decommissioning plans[~~,~~];

(I) [~~P~~]pending approval of or changes to corrective actions to control or remediate existing radioactive material contamination[~~, not already~~] to the extent not already authorized by a license[~~,~~];

(J) a licensing action that would allow for possession or use of any matter, other than natural or native ore, that will be processed primarily for its source material content in a licensed uranium or thorium mill; or

(K) a[~~A~~] licensing issue the [~~D~~]director [~~deems is~~]considers to be of significant public interest.

(b) The initial proposed registration of an ionizing radiation producing machine [~~which~~]that operates at a kilovoltage potential (kVp) greater than 200 in an open beam configuration. Subsection R313-17-2(1)(b) does not apply to ionizing radiation producing machines used in the healing arts.

(c) Board activities that may have significant public interest and the [~~B~~]board requests the [~~D~~]director to take public comment on those proposed activities.

(2) The [~~D~~]director may elect to give public notice of and provide an opportunity to comment [~~on~~]for any licensing action[~~s~~] described in Section R313-70-7 that is not subject to[~~that do not include the actions in~~] Subsection R313-17-2(1)(a)(i)[~~, for all license categories identified in Section R313-70-7~~].

(3) Public notice shall allow at least 30 days for public comment. The director may extend the public comment period for good cause. Notice of extensions shall be provided as set forth in Subsection R313-17-2(5)(b).

(4) Public notice may [~~describe~~]include more than one action listed in Subsection R313-17-2(1) and may combine notice of a public hearing with notice of the proposed action. After considering public comments, however, the director may issue separate final permit orders as to any action that was combined for purposes of public notice, hearing, and comment.

(5) Public notice shall be given by one or more of the following methods:

(a) [~~P~~]publication in a newspaper of general circulation in the area affected by the proposed action[~~,~~]; or

(b) [~~P~~]publication on the Division of Waste Management and Radiation Control website[~~, or~~

~~(c) Distribution by an electronic mail server~~].

R313-17-3. [~~Administrative Procedures~~]Review of Licensing and Permitting Actions.

[~~Administrative proceedings under the Radiation Control Act are~~]Except for actions involving permit or license terminations, the review of permit orders is governed by Section 19-1-301.5 and Rule R305-7.

KEY: administrative procedures, comment, hearings, adjudicative proceedings
Date of Last Change: 2024[~~February 17, 2015~~]
Notice of Continuation: April 8, 2021
Authorizing, and Implemented or Interpreted Law: 19-3-104(4); 19-1-301 and 19-1-301.5

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R313-24**	**Filing ID: 56502**

Agency Information

1. Department:	Environmental Quality	
Agency:	Waste Management and Radiation Control, Radiation	
Room number:	Second Floor	
Building:	MASOB	
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City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144880	
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Contact persons:		
Name:	**Phone:**	**Email:**
Tom Ball	385-454-5574	tball@utah.gov
Spencer Wickham	385-499-4895	swickham@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R313-24. Uranium Mills and Source Material Mill Tailings Disposal Facility Requirements
3. Purpose of the new rule or reason for the change:
These rule changes are being proposed to provide clarity around the environmental assessment process and make updates that are consistent with the Conference of Radiation Control Program Directors (CRCPD) Suggested State Regulations.
4. Summary of the new rule or change:
Section R313-24-3 is being renamed and amended to clarify when an application for a new license, license renewal, or major licensing action that involves construction must be filed with the director and that the application must include an environmental report as required by Section R313-24-4. The new language also states that construction is prohibited unless the director has provided approval. Previous language under Subsection R313-24-3(2) stated that construction prior to issuance of the license or amendment shall be grounds for denial of the license or amendment. Section R313-24-4 is being renamed and amended to provide more detail about what is required to be included in the applicant's environmental report. The requirement to submit an environmental report was previously contained in Section R313-24-3. Section R313-24-5 is being added to provide additional details regarding the director's environmental analysis of the environmental report and the processes involved. The requirement for the director to provide a written analysis of the environmental report was previously contained in Section R313-24-3. The original Section R313-24-4 is renumbered as Section R313-24-6. Additionally, the Division of Waste Management and Radiation Control, Radiation is correcting formatting and typographical errors found in the rule.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There are no anticipated costs or savings to the state budget based on the amendments to this rule. The amendments do not add any new processes or requirements for state agencies, nor do they remove any existing processes or requirements.

B) Local governments:

There are no anticipated costs or savings to local governments based on the amendments to this rule.

The amendments do not add any new processes or requirements that local governments would need to comply with, nor do they remove any existing processes or requirements.

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

There are no small businesses in Utah that must comply with this regulation and the division is not aware of any small businesses that are considering applying for a license that would have to comply with these rules. Therefore, it is not anticipated that the changes being made to the rule will result in any cost or savings to any small businesses.

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

There are 4 non-small businesses in Utah that must comply with this regulation. However, it is not anticipated that the changes being made to the rule will result in any cost or savings to any of these businesses because they do not add any new requirements to the rule, nor do they remove any existing requirements.

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

It is not anticipated that the changes being made to the rule will result in any cost or savings to any persons other than small businesses, non-small businesses, state, or local government entities because there aren't any of these entities in Utah that are directly affected by these rule changes.

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

There are no compliance costs for affected persons due to this rule amendment. The changes simply add clarification to requirements so that entities that must comply with the rules can do so in an effective and efficient manner and will understand the processes and procedures being used by the agency.

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

Regulatory Impact Table

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

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

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

Citation Information

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

Section 19-3-104	Section 19-6-107	

Public Notice Information

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

A) Comments will be accepted until:	07/01/2024

9. This rule change MAY become effective on:	07/15/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Division Director	**Date:**	05/09/2024

R313. Environmental Quality, Waste Management and Radiation Control, Radiation.
R313-24. Uranium Mills and Source Material Mill Tailings Disposal Facility Requirements.
R313-24-3. [~~Environmental Analysis~~]Construction Requirements.

(1) [~~Each new license application, renewal, or major amendment shall contain an environmental report describing the proposed action, a statement of its purposes, and the environment affected. The environmental report shall present a discussion of the following:~~

~~(a) An assessment of the radiological and nonradiological impacts to the public health from the activities to be conducted pursuant to the license or amendment;~~

~~(b) An assessment of any impact on waterways and groundwater resulting from the activities conducted pursuant to the license or amendment;~~

~~(c) Consideration of alternatives, including alternative sites and engineering methods, to the activities to be conducted pursuant to the license or amendment; and~~

~~(d) Consideration of the long-term impacts including decommissioning, decontamination, and reclamation impacts, associated with activities to be conducted pursuant to the license or amendment.~~

~~(2) Commencement of construction prior to issuance of the license or amendment shall be grounds for denial of the license or amendment.~~

~~(3) The Director shall provide a written analysis of the environmental report which shall be available for public notice and comment pursuant to R313-17-2.~~]Any application for a new license, license renewal, or a major licensing action identified in Subsection R313-17-2(1)(a)(i) that involves construction shall be:

(a) filed with the director at least nine months before the anticipated beginning of construction of the plant or facility; and

(b) accompanied by the environmental report required by Section R313-24-4.

(2) Construction, as defined in Section R313-12-3, is prohibited unless the director has provided the necessary licensing and approvals for the construction.

R313-24-4. Applicant's Environmental Report.

(1) For each new license application, application for renewal, or major licensing action identified in Subsection R313-17-2(1)(a)(i), the applicant shall submit an environmental report. In the director's discretion, the director may require the submission of an environmental report for any other licensing action within the scope of Rule R313-24.

(2) The environmental report shall include specific information and data to assist the director in the identification and evaluation of the short-term and long-range environmental impacts of the proposed action, including impact mitigation measures, in sufficient detail for the director to prepare the environmental analysis described in Section R313-24-5. The environmental report shall contain the information the director considers necessary to prepare the environmental analysis.

(3) To the extent the director considers that the information is relevant to the proposed action, the environmental report shall include specific references to, and analysis of, existing environmental information, data, or analyses in the historical administrative record. The director may require the submission of supplemental information and analysis to update previous analyses and information.

(4) The environmental report shall provide an assessment of the following impacts on the environment:

(a) the radiological and non-radiological impacts to the public health and the environment from the activities to be conducted pursuant to the proposed action;

(b) any impact on waterways and groundwater resulting from the activities to be conducted pursuant to the proposed action;

(c) alternatives to the activities to be conducted pursuant to the proposed action; and

(d) the long-term impacts of the proposed action, such as decommissioning, decontamination, and reclamation impacts associated with activities to be conducted pursuant to the proposed action, specifically including the management of any byproduct material.

(5) Examples of specific types of proposed actions where the environmental report would be expected to include detailed supporting data and analysis include:

(a) the siting and construction of a new facility; or

(b) with respect to any existing licensed facility, any new, significant change to the applicant's operations, plans, safety modeling, and similar factors as compared to environmental impacts previously evaluated.

(6) Before accepting the applicant's environmental report submitted under Section R313-24-4 and performing environmental analysis under Section R313-24-5, the director may, in the director's discretion, conduct a preliminary public comment process regarding matters addressed in the environment report, as provided in Section R313-24-4.

(a) Formal publication via newspaper is not required. Notice of the opportunity to submit comments published on the public notice page of the Division of Waste Management and Radiation Control website shall be acceptable. However, the director shall make reasonable efforts to provide actual notice to identifiable stakeholders who may have an interest in the matters addressed in the environmental report, including Native American Tribes, businesses, local, state, and federal governmental agencies, citizen and community groups, or any other person who has requested a notice.

(b) The notice and comment opportunity shall be limited to the matters addressed in the environmental report available at that time.

(c) As part of the director's environmental analysis under Section R313-24-5, the director shall include a written response to any comments received during the preliminary public process regarding the environmental report.

(d) The submission of comments on the environmental report is not required. The failure to submit preliminary comments shall be without prejudice to any person's right to submit comments during the general public comment process described in Subsection R313-24-4(e).

(e) Any person shall have the right to submit comments regarding the proposed action, including the environmental report

and the director's environmental analysis, in connection with the formal public notice, hearing, and comment process described in Subsection R313-24-5(4).

R313-24-5. Director's Environmental Analysis.

(1) For each new license application, application for renewal, or other licensing action for which an environmental report is required, the director shall perform an independent analysis and prepare a written environmental analysis that includes the following elements, including consideration of environmental impact mitigation measures, as applicable:

(a) an assessment of the radiological and non-radiological impacts to the public health and the environment from the activities to be conducted pursuant to the proposed action;

(b) an assessment of any impact on waterways and groundwater resulting from the activities to be conducted pursuant to the proposed action;

(c) consideration of alternatives to the activities to be conducted pursuant to the proposed action; and

(d) consideration of the long-term impacts such as decommissioning, decontamination, and reclamation impacts associated with activities to be conducted pursuant to the proposed action, specifically including the management of any byproduct material, as defined by 42 U.S.C. Section 2014(e)(2).

(2) In preparing the environmental analysis, the director may rely upon and incorporate by reference the environmental report prepared by the applicant as required by Section R313-24-4, and any previous Environmental Impact Statement (EIS) or other relevant environmental analysis prepared by the applicant, or by any federal, state, or local agencies, to the extent the agencies have jurisdiction over the matters.

(3) The environmental analysis, or any part of the environmental analysis, shall be prepared directly by or under supervision of the director.

(4) The director shall make available to the public, in connection with any public notice and comment period under Section R313-17-2, any information or analysis provided or prepared under Sections R313-24-4 and R313-24-5, including any environmental analysis that the director has relied upon or incorporated by reference under Subsection R313-24-5(2). If the proposed action is subject to a question and answer hearing under Section R313-17-4, the director shall make available to the public the information or analysis performed under Sections R313-24-4 and R313-24-5 at least 60 days before the date for the hearing.

(5) Following any public comment period and question and answer hearing associated with licensing actions subject to Rule R313-24, the director shall, after reviewing the public comments received, issue a written final decision.

R313-24-[4]6. Clarifications or Exceptions.

For the purposes of Rule R313-24, 10 CFR 40.2a through 40.4; 40.12; 40.20(a); 40.21; 40.26(a) through (c); 40.31(h); the introductory paragraph of 40.36 and 40.36(a),(b),(d) and (f); 40.41(c); the introduction to 40.42(k) and 40.42(k)(3)(i); 40.46; 40.61(a) and (b); 40.65; and Appendix A to Part 40 (2015) are incorporated by reference with the following clarifications or exceptions:

(1) The exclusion and substitution of the following:

(a) Exclude 10 CFR 40.26(c)(1) and replace with "(1) The provisions of Sections R313-12-51, R313-12-52, R313-12-53, R313-19-34, R313-19-50, R313-19-61, R313-24-1, Rules R313-14, R313-15, R313-18, and R313-24 (incorporating 10 CFR 40.2a, 40.3, 40.4, and 40.26 by reference)";

(b) In Appendix A to 10 CFR 40, exclude Criterion 5B(1) through 5H, Criterion 7A, Criterion 13, and replace the excluded Criterion with "Utah Administrative Code, R317-6, Ground Water Quality Protection"; and

(c) In Appendix A to 10 CFR 40, exclude Criterion 11A through 11F and Criterion 12[~~;~~].

(2) The substitution of the following:

(a) "10 CFR 40" for reference to "this part" as found throughout the incorporated text;

(b) "[~~D~~]director" for reference to "Commission" in the first and fourth references contained in 10 CFR 40.2a, in 10 CFR 40.3, 40.20(a), 40.26, 40.36(f), 40.41(c), 40.46 (a), 40.61, and 40.65; and "[~~D~~]director" for reference to "NRC" in 10 CFR 40.36(b);

(c) "Rules R313-19, R313-21, or R313-22" for "Section 62 of the Act" as found in 10 CFR 40.12(a);

(d) "[~~Rule~~]Section R313-15-402" for reference to "10 CFR 20.1402" and "[~~Rule~~]Section R313-15-403" for reference to "10 CFR 20.1403" in 10 CFR 40.36(d);

(e) "[~~Rule~~]Section R313-15-1109" for reference to "10 CFR 20.2108" in 10 CFR 40.36(f);

(f) "Rules R313-21 or R313-22" for reference to "the regulations in this part" in 10 CFR 40.41(c);

(g) "Section R313-19-100" for reference to "part 71 of this chapter" as found in 10 CFR 40.41(c);

(h) In 10 CFR 40.42(k)(3)(i), "Sections R313-15-401 through R313-15-406" for reference to "10 CFR part 20, subpart E";

(i) "source material milling" for reference to "uranium milling, in production of uranium hexafluoride, or in a uranium enrichment facility" as found in 10 CFR 40.65(a);

(j) "[~~D~~]director" for reference to "appropriate NRC Regional Office shown in Appendix D to 10 CFR part 20 of this chapter, with copies to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555," as stated in 10 CFR 65(a)(1);

(k) "require the licensee to" for reference to "require to" in 10 CFR 40.65(a)(1); and

(l) [~~I~~]in Appendix A to 10 CFR part 40, the following substitutions:

(i) "Section R313-12-3" for reference to "Sec. 20.1003 of this chapter" as found in 10 CFR 40.36(f) and in the first paragraph of the introduction to Appendix A;

(ii) "Utah Administrative Code, Rule R317-6, Ground Water Quality Protection" for ground water standards in "Environmental Protection Agency in 40 CFR part 192, subparts D and E" as found in the Introduction, paragraph 4; or "Environmental Protection Agency in 40 CFR part 192, subparts D and E (48 FR 45926; October 7, 1983)" as found in Criterion 5;

(iii) "[~~D~~]director as defined in Subsection 19-5-102(6)" for reference to "Commission" in the definition of "compliance period," in paragraph five of the introduction and in Criterion 5A(3);

(iv) "[~~D~~]director" for reference to "Commission" in the definition of "closure plan", in paragraph five of the introduction, and in Criterions 6(2), 6(4), 6(6), 6A(2), 6A(3), 9, and 10 of Appendix A;

(v) "license issued by the [~~D~~]director" for reference to "Commission license" in the definition of "licensed site," in the introduction to Appendix A;

(vi) "[~~D~~]director" for reference to "NRC" in Criterion 4D;

(vii) "representatives of the [~~D~~]director" for reference to "NRC staff" in Criterion 6(6);

(viii) "[~~D~~]director-approved" for reference to "Commission-approved" in Criterion 6A(1) and Criterion 9;

(ix) "[~~D~~]director" for reference to "appropriate NRC regional office as indicated in Criterion 8A" as found, Criterion 8, paragraph 2 or for reference to "appropriate NRC regional office as indicated in Appendix D to 10 CFR part 20 of this chapter, or the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555," as stated in Criterion 8A; and

(x) "[~~D~~]director" for reference to "the Commission or the State regulatory agency" in Criterion 9, paragraph 2.

KEY: environmental analysis, uranium mills, tailings, byproduct material
Date of Last Change: 2024[~~March 15, 2016~~]
Notice of Continuation: October 19, 2021
Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-6-107

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R414-60-7**	**Filing ID: 56511**

Agency Information

1. Department:	Health and Human Services	
Agency:	Integrated Healthcare	
Building:	Cannon Health Building	
Street address:	288 N 1460 W	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 143102	
City, state and zip:	Salt Lake City, UT 84114-3102	
Contact persons:		
Name:	**Phone:**	**Email:**
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R414-60-7. Reimbursement

3. Purpose of the new rule or reason for the change:

This proposed amendment addresses a significant disruption to the pharmacy point of sale system affecting Medicaid users in the state.

The purpose of this change is to allow the Medicaid Division director flexibility to waive the 24-day limit on pharmacy dispensing fees if there is a significant disruption to the pharmacy point of sale system.

4. Summary of the new rule or change:

This amendment allows the Medicaid Division director flexibility to waive the 24-day limit on pharmacy dispensing fees due to the system interruption to the pharmacy point of sale system that resulted in extensive downtime and increased administrative workload for pharmacy providers.

It also updates the agency name within the rule title, updates an outdated link, and reformats existing information for clarity and consistency with the Rulewriting Manual for Utah.

Fiscal Information

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

A) State budget:

For the three weeks of the most recent pharmacy point of sale disruption, 8,518 prescriptions were filled without a dispensing fee paid, four of which were for hemophilia clotting factor prescriptions, because of the current rule not allowing for payment within the 24-day period.

With dispensing fees of $10 for most prescriptions, and $716 for hemophilia clotting factor prescriptions, it is estimated that the cost to the state budget to implement this rule change could be around $88,000, the amount necessary to pay outstanding dispensing fees from this most recent disruption.

Note that this does not take all reimbursement factors into account such as claims paid at usual and customary (U&C) or gross amount due which are not eligible for dispensing fees.

B) Local governments:

There is no anticipated fiscal impact to local governments, as they would not pay the pharmacy the dispensing fee.

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

Small businesses such as independent pharmacies would benefit from this rule change as they would see increased dispensing fees for prescriptions filled during a pharmacy disruption point of sale outage period.

The amount of benefit cannot be estimated for this group as data is not available for how many small businesses filled a prescription during the most recent disruption.

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