State of Utah

SPENCER J. COX
Governor

DEIDRE HENDERSON
Lieutenant Governor

Department of
Environmental Quality

Kimberly D. Shelley
Executive Director

DIVISION OF WASTE MANAGEMENT
AND RADIATION CONTROL

Douglas J. Hansen
Director

A meeting of the Waste Management and Radiation Control Board has been scheduled for January 9, 2025, at 1:30 pm at the Utah Department of Environmental Quality, (Multi-Agency State Office Building) Conference Room #1015, 195 North 1950 West, SLC.

Board members and interested persons may participate electronically/telephonically.

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

AGENDA

I. Call to Order and Roll Call.
II. Public Comments on Agenda Items.
III. Declarations of Conflict of Interest.

IV. Approval of the meeting minutes for October 10, 2024, Board meeting ..... Tab 1 (**Board Action Item**)

V. Approval of the meeting minutes for November 14, 2024, Board meeting ..... Tab 2 (**Board Action Item**).

VI. Petroleum Storage Tanks Update ..... Tab 3

VII. Annual PST Fund Actuarial Report Summary Presentation (**Information Item**).

VIII. Administrative Rules ..... Tab 4

A. Approval from the Board to proceed with final adoption on proposed changes to Utah Administrative Code R313-28-140, to allow the Director of the Division of Waste Management and Radiation Control to approve renewal applications of mammography imaging medical physicists who have been previously certified by the Waste Management and Radiation Control Board (**Board Action Item**).

B. Approval from the Board to proceed with final adoption on proposed changes to Utah Administrative Code R315-260, 261, 262, 264, 265, 266, 268, and 270, to incorporate federal regulatory changes made by the U.S. Environmental Protection Agency (U.S. EPA). Additionally, Utah Administrative Code R315-265 is being updated by adopting language from 40 CFR 265 into the rule rather than incorporating the language by reference (**Board Action Item**).

(Over)

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IX. Low-Level Radioactive Waste ..... Tab 5

A. Energy*Solutions*, LLC request for a one-time, site-specific treatment variance from the Utah Hazardous Waste Management Rule R315-268-40(a)(3) to receive, treat, and macroencapsulate incinerator ash containing dioxin/furan contaminants above Universal Treatment Standards (**Board Action Item**).

X. Hazardous Waste Section ..... Tab 6

A. Approval of the Proposed Stipulation and Consent Order between the Director and Matt Oviatt regarding the Former Crown Plating Facility (**Board Action Item**).

XI. Director's Report.

XII. Other Business.

A. Miscellaneous Information Items.
B. Scheduling for the next Board meeting (February 13, 2025).

XIII. 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
October 10, 2024
1:30 p.m.

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

Board Members Participating Virtually: Dr. Richard Codell, Danielle Endres, Nathan Rich, Vern Rogers

Board Members Excused/Absent: Jeremy Hawk, Scott Wardle

UDEQ Staff Members Participating at Anchor Location:
Brent Everett, Morgan Atkinson, Tom Ball, Brenden Catt, Tyler Hegburg, Larry Kellum, Jalynn Knudsen, Arlene Lovato, Gabby Marinick, Judy Moran, Deborah Ng, Stevie Norcross, Bret Randall, Elisa Smith, Brian Speer, Adam Wingate, Raymond Wixom

Others Attending at Anchor Location: Marty Banks, Daniel Dean, Steve Gurr, Corie Miller, Mick Thomas, Mike Zody

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

This meeting was recorded and an unedited audio of this meeting can be accessed at:
https://www.utah.gov/pmn/files/1181585.mp3

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.

Chairman Mickelson provided the following Preliminary Statement regarding public comments on agenda items. The Waste Management and Radiation Control Board has received requests for comment as part of this meeting's agenda. In an effort to provide some guidance on the appropriate scope of these comments, the Board provides the following information:

Under the Utah Administrative Rulemaking Act, Utah Code Section 63G-3-301, the Division of Waste Management and Radiation Control provides opportunity for the public to comment on proposed rules before they are presented to this Board for final adoption. The public is given at least 30 days to make substantive comments to the text of the proposed rule. After the public comment period has closed, the Division reviews and evaluates those comments often providing its determinations in a written response. Agency responses to public comments are included in today's Board packet. No additional comments are accepted or considered by the Division or by the Board after public comment has closed.

Under the Utah Open and Public Meetings Act, Utah Code Section 52-4-102, the Board takes its actions openly. As part of this public policy, the Board may permit the public to comment to the Board in open meetings concerning an action item that is on the previously noticed Board agenda. For example, the public may recommend voting for or against the action item. This comment opportunity concerns the action item and is directed to the Board. It is not an opportunity to provide public comment on the

substance of the rule or request response from the Board or the Division.
In today's Board meeting, we remind you that your comment is not considered to reevaluate the rule, and to limit your comments to the action item on the agenda. We also ask you to keep them brief, in consideration of time others may need the time. We appreciate your cooperation and willingness to provide the Board influential information on its actions.

II. Public Comments on Agenda Items.

Chairman Mickelson asked the public if there were any public comments on agenda items, except for those concerning Agenda Item VIII; none were identified. Therefore, Chairman Mickelson announced that since no other public comments on agenda items were identified, public comments will be received prior to the discussion of Agenda Item VIII.

III. Declarations of Conflict of Interest.

Vern Rogers declared a Conflict of Interest and stated he will refrain from voting on Agenda Item VI. A. B. C. (Energy*Solutions*, LLC treatment variance requests).

IV. Approval of the meeting minutes for the September 12, 2024, Board meeting (Board Action Item).

It was moved by Dr. Steve McIff and seconded by Dennis Riding and UNANIMOUSLY CARRIED to approve the September 12, 2024, Board meeting minutes.

V. Petroleum Storage Tanks Update.

Brent Everett, Director of the Division of Environmental Response and Remediation (DERR), informed the Board that the cash balance of the Petroleum Storage Tank (PST) Enterprise Fund for the end of September 2024, was $37,044,625.00. 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.
Mr. Everett informed the Board that the DERR has received a draft of the annual Actuarial Report. It has been reviewed by staff, and the DERR will be providing comments to the contractor. When the report is finalized, the information will be presented to the Board.
The DERR is working with a sponsor and their legislative committee to make changes to the PST Act. This effort is primarily to provide consistency between underground and aboveground petroleum storage tank (APSTs) regulation. The DERR is three years into implementation of APSTs into the program and has found some areas that could be improved to provide greater consistency. One request is to include APSTs in the PST loan program. The loan program provides facilities with a zero interest loan to upgrade their equipment. The DERR is also requesting a transfer of funds from the PST Fund to the PST Cleanup Fund. A transfer of funds would allow the DERR to work on historic releases where the owner is unwilling, unable, or unknown to clean up the release.
There were no additional comments or questions.

VI. Low-Level Radioactive Waste.

A. Energy*Solutions*, LLC request for a one-time, site-specific treatment variance from the Utah Hazardous Waste Management Rules. Energy*Solutions* seeks authorization to dispose, in Energy*Solutions*' Mixed Waste Landfill Cell, waste containing the D009 and/or U151 High Mercury-Organic Subcategory and High Mercury-Inorganic Subcategory hazardous waste codes that have been treated using stabilization/amalgamation technologies (Board Action Item).

Tyler Hegburg, Environmental Scientist, Low-Level Radioactive Section, in the Division of Waste Management and Radiation Control, reviewed Energy*Solutions'* request for a one-time, site-specific treatment variance request to dispose of waste containing the D009 or U151 High Mercury-Organic Subcategory and High Mercury-Inorganic Subcategory hazardous waste codes. Mr. Hegburg reminded the Board that this matter was previously presented as an information item to the Board during their September Board meeting.

Energy*Solutions* requests a variance from Utah Administrative Code R315-268-40(a)(3) to dispose, in their Mixed Waste Landfill Cell, approximately 2,500 cubic feet of waste containing the D009 or U151 High Mercury-Organic Subcategory and High Mercury-Inorganic Subcategory hazardous waste codes that have been treated using stabilization/amalgamation technologies to either the 0.2 mg/L TCLP standard for hazardous waste or the 0.25 mg/L TCLP standard for contaminated soil.

Energy*Solutions* receives and requests to dispose of in their mixed waste landfill cell waste D009 or U151 High Mercury-Organic Subcategory and High Mercury-Inorganic Subcategory hazardous wastes that have been treated with amalgamation/stabilization technology. For this waste stream, the listed treatment technology is found in 40 CFR 268.40. The D009 High Mercury-Organic Subcategory is either incineration (IMERC) or retorting/roasting for mercury recovery (RMERC). The listed treatment technology for the D009 High Mercury-Inorganic Subcategory and for U151 is RMERC.

The need and justification for this variance are as follows: The intent of the RMERC treatment process is to recover elemental mercury for recycling. However, radioactive mercury cannot be recycled and the RMERC process generates secondary waste (radioactive elemental mercury), which requires additional treatment by amalgamation (a stabilization technology) prior to disposal. The IMERC technology is also intended to be a mercury recovery technology where the waste is incinerated, and the mercury recovered in the ash or in a specific off-gas control system. For radioactive mercury, both the ash and the control equipment/media will require further treatment. Furthermore, incineration involves an extra handling step for the radioactive residue. Successful chemical stabilization of High Mercury-Inorganic Subcategory wastes has been demonstrated to achieve a measure of performance equivalent to the required methods which require two treatment methods (RMERC and stabilization) with no detrimental effect to human health or the environment. Additionally, the U.S. Environmental Protection Agency (U.S. EPA) has issued a Determination of Equivalent Treatment (DET) for these High Mercury Subcategory wastes that were chemically stabilized. In the U.S. EPA's determination, they concluded that for waste streams that are radioactive and contain mercury, the recovery portion of RMERC may not be appropriate and that alternative treatment processes should be pursued.

The U.S. EPA has reviewed the treatment of mercury-bearing waste in a Federal Register Notice (68 FR 4481). In this notice, the U.S. EPA concluded that treatment of mercury waste is possible, and it is suggested that stakeholders should use the site-specific treatment variance process to achieve approval for the treatment of high subcategory mercury wastes. The notice specifically designates an example of when this would be appropriate as the case of a high mercury subcategory waste that is also radioactive.

To date, Energy*Solutions* has disposed of approximately 19,900 cubic feet of treated High Mercury Subcategory waste. From knowledge of the current market of High Mercury Subcategory Waste requiring treatment or disposal, and from past experience receiving this type of waste, Energy*Solutions* anticipates less than 2,500 cubic feet of additional High Mercury Subcategory waste for disposal in the next year under this treatment variance.

Energy*Solutions* has requested and has been granted this variance request by the Board 19 times previously, beginning in 2001.

A notice for public comment was published in the S*alt Lake Tribune* on September 1, 2024, and the *Deseret News* and the *Tooele Transcript-Bulletin* on August 28, 2024. The 30-day public comment period began August 29, 2024, and ended September 27, 2024; no comments were received.

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

There were no additional comments or questions.

It was moved by Mark Franc and seconded by Shane Whitney and UNANIMOUSLY CARRIED to approve Energy*Solutions*, LLC request for a one-time, site-specific treatment variance from the Utah Hazardous Waste Management Rules, to dispose, in Energy*Solutions*' Mixed Waste Landfill Cell, waste containing the D009 and/or U151 High Mercury-Organic Subcategory and High Mercury- Inorganic Subcategory hazardous waste codes that have been treated using stabilization/amalgamation technologies.

B. Energy*Solutions*, LLC request for a one-time, site-specific treatment variance from Utah Hazardous Waste Management Rule R315-268-40(a)(2). Energy*Solutions* seeks authorization for the macroencapsulation of radiologically contaminated silver pieces that are less than 60mm (2.4 inches) in any direction to be managed as debris at the Energy*Solutions* LLC, Mixed Waste Facility (Board Action Item).

Tyler Hegburg, Environmental Scientist, Low-Level Radioactive Section in the Division of Waste Management and Radiation Control, reviewed Energy*Solutions,* LLC's request for a one-time, site-specific treatment variance request for the macroencapsulation in any direction to be managed as debris at the Energy*Solutions* LLC, Mixed Waste Facility. Mr. Hegburg reminded the Board that this matter was previously presented as an information item to the Board during their September Board meeting, and this is the first time the Board will approve this type of variance request.

Energy*Solutions* requests a one-time, site-specific treatment variance from the Utah Hazardous Waste Management Rule R315-268-40(a)(2) for the macroencapsulation of pure silver pieces that are less than 60mm (2.4 inches) in any direction to be managed as debris. This variance is being requested for approximately 1 drum (5 gallons) of radiologically contaminated small silver pieces that are less than the minimum size threshold of 60mm (2.4 inches) in any plane of direction other than size meet the definitional requirement of debris under Utah Administrative Code R315-268-2(g). The waste itself consists of pure silver pieces carrying the D011 EPA Hazardous Waste Code that is secondary radiologically contaminated as a result of direct or residual contact with various uranium isotopes and their daughter products during the waste generation process.

Under Utah Admin. Code R315-268-40, the treatment standard for D011 listed waste is 0.14 mg/L using the Toxicity Characteristic Leaching Procedure (TCLP). Because the pieces are pure silver, it would not be possible to treat the waste to this treatment standard without bringing dilution of the waste into question. As an alternate treatment method, Energy*Solutions* proposes to macroencapsulate the waste according to treatment standards found in Utah Admin. Code R315-268-45 for the treatment of hazardous debris.

If the waste silver pieces were slightly larger than the minimum threshold, this variance request would not need to be required for this waste, and the waste would be macroencapsulated.

Additionally, Energy*Solutions'* proposal to macroencapsulate the waste will follow requirements approved in the state-issued Part B Permit. Final disposal of the waste will occur in the Mixed Waste Disposal Cell at the Energy*Solutions'* Mixed Waste Facility.

Mr. Hegburg reiterated that this is the first-time Energy*Solutions* has requested a variance approval from the Board for this specific type of waste stream.

A notice for public comment was published in the S*alt Lake Tribune* on September 1, 2024, and the *Deseret News* and the *Tooele Transcript-Bulletin* on August 28, 2024. The 30-day public comment period began August 29, 2024, and ended September 27, 2024; no comments were received.

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

There were no additional comments or questions.

It was moved by Shane Whitney and seconded by Dr. Richard Codell and UNANIMOUSLY CARRIED to approve Energy*Solutions*, LLC request for a one-time, site-specific treatment variance from the Utah Hazardous Waste Management Rule R315-268-40(a)(2) for the macroencapsulation of radiologically contaminated silver pieces that are less than 60mm (2.4 inches) in any direction to be managed as debris at the Energy*Solutions* LLC, Mixed Waste Facility.

C. Energy*Solutions*, LLC request for a one-time, site-specific treatment variance from Utah Hazardous Waste Management Rule R315-268-40(a)(3). Energy*Solutions* seeks authorization to macroencapsulate and dispose in Energy*Solutions*' Mixed Waste Landfill Cell, waste containing high concentrations of arsenic that cannot be treated to the specified treatment standard (Board Action Item).

Tyler Hegburg, Environmental Scientist, Low-Level Radioactive Section in the Division of Waste Management and Radiation Control, reviewed Energy*Solutions,* LLC's request for a one-time, site-specific treatment variance request to macroencapsulate and dispose in Energy*Solutions*' Mixed Waste Landfill Cell waste containing high concentrations of arsenic that cannot be treated to the specified treatment standard.

Mr. Hegburg reminded the Board that is matter was previously presented as an information item to the Board during their September Board meeting.

Energy*Solutions* requests a one-time, site-specific treatment variance from the Utah Hazardous Waste Management Rule R315-268-40(a)(3) for waste that contains arsenic concentrations far greater than the 5mg/L treatment standard that cannot be treated to the specified treatment standards found in Utah Admin. Code R315-268.

Energy*Solutions* is seeking to stabilize, macroencapsulate and dispose of approximately 25 cubic feet of RCRA Mixed Waste that carries additional characteristically hazardous metal contaminants and high arsenic concentrations in the Energy*Solutions'* mixed waste landfill cell.

For historical context of this waste, following stabilization and post treatment processes, the arsenic concentration remained elevated at 158 mg/L, greatly exceeding the 5.0 mg/L treatment standard while all other associated hazardous contaminants met the Universal Treatment Standards found in Utah Admin. Code R315-268.

Beginning in December 2023, Energy*Solutions* began running treatability studies in an attempt to lower the arsenic concentrations to the minimum treatment standards. In initial attempts, Energy*Solutions* achieved concentrations a low as 27.2 mg/L by March 2024, still above the minimum 5.0 mg/L threshold.

From April 2024 to August 2024, Energy*Solutions* conducted nine additional treatability studies of increasing intensity on waste. Both single phase and multiple phase formulas were attempted to treat the arsenic contaminant. These studies resulted in further reduction of the arsenic concentrations from 13.0 mg/L, which greatly reduced form the initial 158 mg/L but still above the treatment standard of 5.0 mg/L. This final treatment formula still did not achieve the 5.0 mg/L treatment standard using a reagent treatment of 3:1 reagent to waste ratio.

Under Utah Admin. Code R315-268-44(h)(1), a variance is allowed if it can be demonstrated that "because the physical or chemical properties of the waste differ significantly from waste analyzed in developing the treatment standard, the waste cannot be treated to the specified level or by the specified method." The results described above demonstrate that large amounts of reagent would be needed to meet the treatment standard, if it could be met. This would bring into question whether actual treatment was occurring or whether dilution was causing the reduction in arsenic concentration.

As an alternative to chemical treatment of arsenic in the waste, Energy*Solutions* proposes to first treat the waste so that all other hazardous contaminants, other than the arsenic, are meeting the respective treatment standards, then macroencapsulate the treatment residual in accordance with requirements in Attachment II-1-5 of the State issued Part B Permit. Macroencapsulation plan is to isolate and significantly reduce the potential of leaching of the waste.

In summary, Energy*Solutions* requests that a variance be granted to allow macroencapsulation and land disposal of waste that will meet all treatment standards except the treatment standard for arsenic. Prior to disposal, all other contaminants that are found in this waste stream will meet the treatment standards using Energy*Solutions'* approved stabilization methods, and final disposal will occur in the Energy*Solutions'* mixed waste cell at the Energy*Solutions'* facility using macroencapsulation.

Energy*Solutions* has made three similar variance requests for other elevated arsenic waste that were made and approved by the Board in 2016, 2019, and 2023.

A notice for public comment was published in the *Salt Lake Tribune* on September 1, 2024, and the *Deseret News* and the *Tooele Transcript-Bulletin* on August 28, 2024. The 30-day public comment period began on August 29, 2024, and ended on September 27, 2024; no comments were received.

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

There were no additional comments or questions.

It was moved by Dennis Riding and seconded by Dr. Steve McIff and UNANIMOUSLY CARRIED to approve Energy*Solutions*, LLC request for a one-time site-specific treatment variance to macroencapsulate and dispose in Energy*Solutions*' Mixed Waste Landfill Cell, waste containing high concentrations of arsenic that cannot be treated to the specified treatment standard.

VII. Hazardous Waste Section.

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

Gabrielle Marinick, Environmental Engineer, Hazardous Waste Section in the Division of Waste Management and Radiation Control, reviewed the proposed Stipulation and Consent Order (SCO)

No. 2310118 between the Director and Clean Harbors Aragonite, LLC, to resolve Notice of Violation and Compliance Order (NOV/CO) No. 2306055 issued to Clean Harbors Aragonite, LLC (CHA) on July 19, 2023.

The NOV/CO was based on information documented during an inspection at the facility on August 30 through September 16, 2022, and several self-reported noncompliance issues during the 2022 fiscal year (October 1, 2021, through September 30, 2022).

The violations noted in the NOV/CO have been resolved. The SCO includes a penalty of $55,000.20 of which $20,000.20 will be a cash payment, $20,000 of which will be credited towards two supplemental environmental projects in the form of a $10,000 donation to the Western States Project and a $10,000 donation to the Association of State and Territorial Solid Waste Management Officials, and $15,000 of which will be deferred and may be waived if CHA meets the criteria established in the SCO.

A notice for public comment was published in the *Salt Lake Tribune*, *Deseret News*, and *Tooele Transcript-Bulletin* on October 2, 2024. A 30-day public comment period began on October 3, 2024, and will end on November 1, 2024.

This is an information item, and following the 30-day public comment period, this matter will be brought before the Board for action in a future meeting.

Dennis Riding asked if all the violations/issues have been resolved. Ms. Marinick replied yes.

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

Judy Moran, Environmental Scientist, Hazardous Waste Section in the Division of Waste Management and Radiation Control, reviewed the proposed Stipulation and Consent Order (SCO) No. 2307071 to resolve Notice of Violation and Compliance Order (NOV/CO) No. 2207080 issued to Clean Harbors Environmental Services (CHES) on September 28, 2022.

The NOV/CO was based on information documented during inspections conducted at the "49UT Yard," a warehouse and equipment storage yard, that was being used as hazardous waste (10-day) Transfer Facility on April 12, 2022, and April 27, 2022. Operational changes have been made to prevent the violations documented in the NOV/CO from being repeated.

The Proposed SCO includes a total penalty of $34,150.00.

[The newspapers publication date and comment period was incorrectly provided at the meeting.] A notice for public comment was published in the *Salt Lake Tribune*, and the *Deseret News* on October 9, 2024. A 30-day public comment period began on October 10, 2024, and will end on November 8, 2024.

This is an information item, and following the 30-day public comment period, this matter will be brought before the Board for action in a future meeting.

There were no additional comments or questions.

VIII. Administrative Rules.

[Public Comments on VIII. B. Approval from the Board to proceed with final adoption of proposed 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]

Marty Banks verbatim comments. Thank you for the indulgence to provide some additional comments, I will try to be very brief. I am going to presume that you're all familiar with not just the initial comments that were filed by my client, Integrated Waste Management, but some of the others, and so I am going to try to highlight and particularly touch on some of the responses that the Division has given to those comments that some of the stakeholders had previously provided. I certainly would invite any of you to interrupt me as I am going along; I am not so much interested in giving a speech but rather addressing any issues that you might have a particular concern or questions about. Also, I should apologize, I had some eye surgery last week and things are still a little fuzzy, so indulge me if I am a little awkward and clumsy with my papers here.

Let me start first with just trying to put into the proper perspective what we're asking for here. And, of course, what my client, Integrated Waste Management (IWM), but they and many other members of the industry, are looking for. It is not a categorical absolute requirement for liners. What we are seeking here is a request for a liner requirement with an off-ramp where it's not appropriate. In other words, we're trying to switch the burden of proof, or if you will, the default of if and when somebody, be it the Director or an interested applicant, has to demonstrate whether a liner is required. So, more specifically, here, and we don't think that there's a downside to our request, if an applicant for a new E&P landfill comes in and doesn't have a problem with putting in a liner, they'll put in his/her liner and that will be the end of it. If another applicant comes along and says gee-whiz, based on my site- specific conditions here, I don't think a liner is really warranted. Then all they have to do is make a demonstration to the Director that liner is not required and will not [audio cuts out/inaudible] Director's rule. In other words, right now the way the rules are written, is that there is no liner required, unless the Director determines that one should be required. We are simply asking that that default for that burden of proof be switched, so that a liner is required unless and until the applicant cares to make a demonstration that for their particular site-specific conditions, it's not required.

I would add that [audio cuts out/inaudible] as seen in their Response to Comments, that the Agency thinks that the structure where the defaults on "no liner" that unless the Director decides to move forward with it that's preferable in this particular circumstance. I would suggest that that is dramatically opposed to almost every other regulatory regime that this Board and every other environmental agency in the State of Utah has. I won't bore you with the detail, but I will give you sampling. For example, the Air Conservation Act variances states that a person who owns or is in control of the plant may apply for a variance. It is not the Director deciding that one is required; the default is whatever that control measure is and the applicant can come in and ask for variance. The Air Conservation Act's implementing regulations provide the same thing, and I quote "variance requests may be submitted by the owner, not the Director." The same applies with the Safe Drinking Water Act, Section 19-4- 104 provides that [audio cuts out/inaudible] the Board may make rules for a variances, and then goes on to say that the Director can order the filing of a request for a variance. In other words, telling someone else they're going to have to seek a variance, he doesn't make that initial determination. Under the Water Quality Act, same thing, under Section 19-5-105 the challenging party may be granted variances, the regulations say the same thing. We go to the Solid and Hazardous Waste Act, and we look at Section 19-6-111: no variance may be granted except upon application for it, and so on and so forth. We heard the gentleman get up for Energy*Solutions* asking for a variance. The rule, there may be some other exceptions but I'm not aware, is that the default is with assumption of protection, and if the applicant wants to demonstrate that it is not necessary, well then, leave it on the applicant to make that case in a particular site-specific circumstance. I will end with simply saying that the notion here that the Division has argued it when

there are high liquid wastes, those are dealt with under the Surface Impoundment Rule R322. But, when there aren't high liquids, those ought to be dealt with Rule R321, and there is no reason to have a liner requirement.

[audio cuts out/inaudible] If the regulated community does not want it, and you talked about the industry standard, you've heard from some members of the regulated community, and you've seen the comment submitted by the Utah Petroleum Association that represents most, not all, but most of the operators who are going to be sending this material off site. This is neither requested by or welcomed by the regulated community and [audio cuts out/inaudbile] ask that there simply be that, but I will leave it at that. I would jump to another document that hopefully you have some familiarity with, it's the 2023 letter from the U.S. Environmental Protection Agency where they set forth their requirements and best practices for landfills, and it is issued specifically in the context of E&P waste. This is not a general guidance document, but specifically in the context that we're talking about and [audio cuts out/inaudible] we it certainly doesn't repute that the letter exists or repute the contents of its message, which is, I quote, "Landfill should be designed/constructed per industry standard to include appropriate composite liner systems." Couldn't be more clear, yet in the Response to Comments, the Division indicates that there is a need for the EPA to, quote, "clarify the [audio cuts out/inaudible] regulations for E&P landfills." We don't see a need for clarification to require a composite synthetic liner. There may be, if the Division is asked to create a liner requirement, they may want to define and elaborate a little bit, but it seems most appropriate in some of the details. But the basics and that instruction from the EPA is quite clear.

Third is the industry practice here. We talked about and I just quoted language from the EPA's Requirements Best Practices Guidance Document, and notably it talks specifically about and it quotes the industry standard composite liner system. It is not just the EPA that has confirmed this industry standard. You have read the comments from the Utah Petroleum Association, no small player in this regulated industry; you have heard and seen the comments submitted by the Ute Indian Tribe, which has facilities immediately adjacent to a lot of these areas where these landfills will be. You have seen in my comments, I hope, reference to the Division's historic over the past decade their requirements that applicants have a synthetic liner for its recently permitted landfills.

In addition to the Division's own conduct you have the testimony in our comments three different reports from engineering, professional environmental consultants, and two additional reports, expressly elaborating on this issue, which all confirmed industry standard.

And lastly, you've got numerous specific industry members confirming the industry standard for E&P landfills is liners with an appropriate off-ramp site-specific circumstances when warranted. Lastly, and I want to give me an advance, I want to get a little legal here only because the Division in its Response to Comments undertook a legal analysis of a question that has been raised in this context, and that is, the State of Utah has a prohibition on regulations that are more stringent than the federal rule. I want to quote the sentence, though, and it's small because it's very important that we see what the law says, as opposed to sometimes how it's talked about. Here is what the prohibition says, a prohibition, I quote, [audio cuts out/inaudible] "the rule cannot be more stringent than the corresponding federal regulations which address the same circumstances." Again, more stringent than its corresponding federal regulation which address the same circumstances.

Here, there is no corresponding federal regulation which addresses the same circumstance. There is simply no animal in the federal regime that talks about whether E&P landfills should have liners. Instead, what the Division is suggesting in its Response to Comments is that 40 CFR 357, Subpart A is that corresponding federal regulation. It's not. Subpart A of that regulation doesn't talk anything about design standards for liners. It certainly doesn't talk anything about whether a liner is required. In short, there simply is no corresponding federal regulation here which address the same

circumstance, which means that we have a void, we have an empty pocket here. The federal regulation doesn't address this issue, which is in large part why EPA stepped up and issued this guideline to clarify the matter. And so, we do not believe from legal perspective that a rule requiring a liner with an appropriate offramp where it's not going to [audio cuts out/inaudible]. We don't believe that that would conflict with the existing federal regime. We believe it will feel full, and in any event and for whatever reason, the Board would conclude that nevertheless, that kind of rule would conflict with the federal requirement, we would go ask for the hearing that would be appropriate to partial the evidence and demonstrate that the federal regime doesn't adequately detect this requirement. Hope we do not have to go down that route, but seems to me by far the easier measure is simply to switch the burden so that there is a liner requirement unless a particular applicant can demonstrate it is not needed.

And with that, I will just quickly note a couple of historical points and sit down. One is that if DOGM—the responsibility for E&P waste management has transitioned from has transitioned from DOGM to DWMRC I guess, is still in the process and in doing so, DOGM was told that we don't want you putting E&P waste on the soil like you've been doing in land farming for so long, that was the legislature's decree. Well, this rule as written would say, okay never mind that, we are going to allow DWMRC to put the same material right directly on the ground now, which legislature had just told DOGM not to do, we can't let you do this, were going to shift things. It is a bit of a simplification and there is a lot more behind the historic legislative changes that prompted these E&P rules, but the inconsistency here is that we can't now let DWMRC do what DOGM was told to stop doing. I 'll add also that the Division has acknowledged that they have required liners in the applications that came in over the course the last decade, and that included some of my clients requiring liners and others as well. [audio cuts out/inaudible]Maybe just to close with the most important part here, is simply based on all of the expert submittals that were submitted, including those two reports and those three comment letters from professional engineering environmental experts, all expressed concerns that this rule could have on the environment, and with that I will thank you for your patience and answer any questions you may have.

[Chairman Mickelson, apologized for not having Mr. Banks introduce himself and his affiliation and asked that he introduced himself.]

I will conclude in my comments my name is Marty Banks, an Attorney with the law firm of Parr Brown and I am here on behalf of my client Integrated Waste Management Inc., thank you.

Mike Zody verbatim comments. Good afternoon, my name is Mike Zody, Attorney with Parson Behle Latimer, in Salt Lake City. I am here on behalf of RN Industries to comment on Agenda Item VIII, Draft Exploration and Production Waste Rules. I'll be hopefully fairly short here. I would join in [[audio cuts out/inaudible]. I do want to thank the Board for [audio cuts out/inaudible] and for its robust stakeholder outreach, it's a great dialogue.

[Mr. Zody was informed he could not be heard and was asked to speak up]. Sorry about that. So, anyway yes, the Division has done a great job with outreach, and we support the rules. My clients supports the bulk of the rules. We just have two specific comments.

First of all, we agree that the presumption in the R321 rule on landfills and we think the presumption should be in the favor of a liner out of the gate. If an operator wants to seek an exception, they should have the ability to do so. But, we think it's going to be more protective for all of the evidence in the record in front of you. As a Board doing rulemaking, you are supposed to make your decisions based upon substantial evidence. I would submit that through IWM's presentation and expert technical presentations you have been given, you have substantial evidence weighing in favor of that one fairly simple change. It is not a big change, but it will be more protective. In the Response to Comments at pages 175-176, the Agency, the Division, recognizes that it has required

liners between 2013 and 2023 for these types of landfills. I think that is part of why you are seeing a little bit of pushback, as the recent experience where liners have been required and we thought that other operators might not have to do the same, it's a little bit tough to swallow I guess for people. So, I think that informs where we are today. The Division presents the position that liners aren't per say required because it has stepped up enforcement, communication, and doing inspections, and that will reduce the amount of free liquids. They do not say it will eliminate the amount of free liquids in these landfills. I say, why take the risk? You don't have to take the risk. It is pretty simple for this Board to say that the presumption is a liner is required unless a specific showing can be made. So, rather than rely upon what can be getting this in terms of overall compliance overtime inspections, go for the more protective group out of the gate.

Mr. Banks talked about 19-6-106, which has been in Utah law for many years. We are talking more protective strict and federal regulations. There's really been no litigation and no court decision telling us what that means. But I agree with Mr. Banks that there is no specific federal regulation to deal with E&P waste. So, we don't think your hands are tied here on this topic. The Division cites to 40 CFR 257 Subpart A as being applicable; that has very general, generic requirements. But if the Agency can't be more specific, more strict than Subpart A, then query whether to do these rules at all without making additional findings. So, I don't really think that prohibition ties your hands in any way in this circumstance.

So to summarize on the liners for landfills, we agree with, I think, most of the comments that I believe you received, I'm not aware of any that need correction. We simply want to flip the burden, that's it.
The other topic I want to briefly touch on is financial assurance and my client submitted a comment, and the Agency—and I was sort of surprised in the Response to Comments. My client has been asking can we continue to use certificates of deposits, CDs that we've been using with DOGM and [[audio cuts out/inaudible] and the issue of financial assurance has been on the table going all the way back to 2021. It's been a topic in the stakeholder meetings and we asked when the draft rules came out this spring, can we have certificates of deposits, like DOGM. The Agency in its July 3, 2024, Response to Comments said it's considering it. In the official comments, we submitted a one paragraph comment that says: Yes, we would like to be able to use certificates of deposit, DOGM uses them, BLM uses them, we gave a couple of examples. I was surprised to see the Agency say in response that the topic is not part of this rule. That surprised me a little bit, and so I feel like it is part of the rule. We made an ask, and we have not received any substantive objections as to why a CD would not be allowed.

So, we would ask that you consider that, as DOGM has allowed it, and I can't think of any reason why they don't work; they seem to work. So that is the other ask that we have. Again, I appreciate your time, your volunteer service, and I will end with that. If you have any questions, I will be happy to answer them; otherwise, I will sit down.

Chairman Mickelson thanked Mr. Zody for his time and his comments.

Daniel Dean verbatim comments. I am Daniel Dean. I am a geologist with Langan Engineering Environmental Services, representing Integrated Waste Management. I will try to keep this brief. In the Division's—in the proposed R315-321 rule, there are two options provided to protect groundwater: Facilities can have a liner and conduct leak detection, and if there are leaks detected by that leak detection system, those can be repaired. The other option is for facilities to monitor groundwater. If there is contamination detected in groundwater for an extended period, then that facility will have to enter a corrective action program and remedy the contamination. The Division states in its Response to Comments that it, quote: "maintains that one or the other is sufficient for environmental protection." We are all familiar with the idea that an ounce of prevention is worth a pound of cure. Remediation of groundwater is one of the most expensive and logistically difficult types of environmental remediation.

Particularly if we are talking about a large E&P landfill waste facility that has both contamination detected for an extended period of time. We are talking about a very large volume of groundwater that could be significantly contaminated, and remediation of that groundwater could easily be a multi-million if not a multi-tens of millions of dollars process that could take years or longer.

Given that, it seems hard to justify the idea that either option here is sufficient to maintain the environment. That is all I have.
Chairman Mickelson thanked Mr. Dean for his time and for his comments as well.

Dennis Riding asked Mr. Dean if he knew where these facilities are at that he cited in the depth to groundwater generally. Mr. Dean stated that he is not saying that there is, but consistent with what Marty and Mike said, acknowledge that depth to groundwater site-specific geology can all play a hand in here, and they are not arguing that there are not specific citing instances where it would be inappropriate for a facility to not have a liner. Mr. Dean stated that his is very familiar with that, and is just trying to focus very specifically on this Response to Comment that says either/or. Particularly if facility is monitoring groundwater, and if that groundwater is deep, they are going to have to enter in a corrective action program because there has been contamination detected in that groundwater for an extended period of time. The depth the groundwater there, if anything, is an argument that it should be to almost have a more robust protection because the depth to that groundwater, if it is found to be contaminated, is going to make that remediation more logistically difficult.

There were no additional comments or questions.

A. Approval for the Board to delegate the authority for renewing Mammography Imaging Medical Physicists (MIMPs) certifications to the Executive Secretary (Information Item).

Tom Ball, X-Ray and Technical Support Manger in the Division of Waste Management and Radiation Control (Division), informed the Board that this is an informational item and reviewed the request for approval for the Board to delegate the authority for renewing Mammography Imaging Medical Physicists certifications to the Executive Secretary and the rules around that process.

In May of this year, the Division requested approval from the Board for the Executive Secretary to extend the expiration date for several Mammography Imaging Medical Physicists Certifications, referred to as MIMPs. That was due to issues with a new online, electronic registration process. Based on the circumstances around that request, the Division and the Office of the Attorney General reviewed the rules and statutes associated with MIMP certifications, and the Division is proposing that the Board amend the rules to delegate the authority for renewing MIMP certifications to the Division Director.

Mr. Ball provided the following background for this request: The Board receives its authority for issuing certificates of approvals to individuals who survey mammography equipment from Utah Code 19-3-103.1(2)(c) which states that the Board shall review the qualifications of and issue certificates of approval to individuals who survey mammography equipment or oversee quality assurance practices at mammography facilities. This statute has been interpreted to mean that the Board will issue certificates for new and renewal applications, and the Board has made rules in Utah Admin. Code R313-28-140 to reflect this.

Mr. Ball apologized for inadvertently not providing a copy of Utah Admin. Code R313-28-140 in the Board's packet and stated it will be provided in the Board's November packet. Mr. Ball informed the Board that the Division staff have the responsibility of reviewing the qualifications of individuals seeking certification as an MIMP and then bringing those individuals to the Board whose qualifications meet the requirements in the rules for approval to issue certificates. Renewing

certificates is an administrative process that just verifies that a previously certified MIMP has met the education and work experience requirements that are spelled out in rules.

Utah Code Section 19-3-103.1(1) states that the Board may make rules that are necessary to implement the Radiation Control Act. This statute gives the Board the authority to make and amend the rules regarding the issuing of certificates to MIMPs. Under this authority, the Division is proposing that the Board amend the rules to allow the Division Director to review the qualifications and issue certificates to individuals seeking recertification of their MIMP certification. Under the proposed amendments to the rules, the Board would still issue initial certifications.

The proposed amendments would also not make any changes to the required qualifications for certification or recertification or to the three-year certification period.

The Division also believes that amending the rules to allow the Division Director to issue renewal certificates to certified MIMPs would create some efficiencies in government. Currently, when a MIMP applies for recertification, they must wait for a Board meeting to be held for the Board to approve the issuance of their renewal certificate. This can only take place after the Division staff have reviewed the application and determined that the individual's qualifications meet the requirements in the rules. If the application is submitted one or two weeks before a scheduled Board meeting, there is not enough time for staff to review the application and prepare the necessary information for the Board, so the applicant must wait until the next scheduled meeting, which could be 6 to 8 weeks depending on the timing of the submission, or, in the event that a Board meeting is canceled, potentially could be up to twelve weeks, which could result in the certification of the individual lapsing while they wait. It would also avoid situations similar to what occurred in May of this year in extending applicants' certificates. Therefore, the Division believes there is an efficiency issue for renewals because with the Division Director approving the renewals they could be done within five or six days, maybe less, of receiving that application.

Mr. Ball reiterated that this is an information item. The Division will return to the Board at a future meeting with proposed changes to these rules seeking approval from the Board to publish the proposed changes for public comment.

Mark Franc asked what is the current standard for a renewal that has lapsed and asked if the applicant does not complete a timely renewal, are they required at some point to complete a new application and asked how the current process works? Mr. Franc stated that the reason that he is asking is because if there is some disciplinary action or an applicant's licenses is revoked or they were just negligent in renewing their license and it has been six months, a year, or even five years, would those type of situations come back before the Board or would it still be considered as a renewal. Mr. Ball stated that if an applicant's license was revoked it would be brought back to the Board. Specifically, in that situation, the applicant would have to start the process all over again at step one to receive an initial certification. So, those instances would come to the Board. Mr. Ball clarified that for renewals, there is nothing in the rules that requires a timely renewal. Mr. Ball informed the Board that if an applicant's license does lapse, there is a requirement that the applicant can still recertify it as long as the applicant has met the requirements for recertification. Mr. Franc commented it may be worth looking into or considering some type of requirement that once an applicant's certification has been lapsed for a certain amount of time that it would be required to come back before the Board.

Mr. Franc further stated that he is in agreement that once an applicant's qualifications are determined that the applicant should not be required every time to come back before Board as long as none of the requirements have changed. However if the applicants certification has lapsed for whatever reason, it makes sense that it be required for them to come back before the Board. Mr. Franc briefly discussed the possible required time frames for that to occur. Mr. Ball stated that Mr. Franc's comments will be reviewed as the Division proceeds with amending the rule.

There were no additional comments or questions.

B. Approval from the Board to proceed with final adoption of proposed 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).

Jalynn Knudsen, Assistant Director, Division of Waste Management and Radiation Control, provided a PowerPoint presentation titled "*Exploration and Production Waste.*" [A copy of the presentation is included with the meeting minutes.]

Dennis Riding asked how will the Division monitor for the liquid contents in the wastes that are being received by the E&P landfills that are not supposed to be contained in the E&P landfills. Brian Speer, Solid Waste Section Manger in the Division of Waste Management and Radiation Control, stated that in terms of managing the liquids that might be received at an E&P landfill, the same standards apply for an E&P landfill as do for all other landfills that receive waste. That is that the landfill needs to minimize the free liquids received. The waste cannot fail a 60 mesh paint filter test, which is a specific U.S. EPA method that checks for free liquids. Mr. Speer clarified that operators are not required to put every load through a waste filter test, but the Division highly encourages it.

Mark Franc asked under what conditions would the Division invoke the requirement to install a liner and asked what would be the deciding factors in that. Mr. Speer stated that he could not speak to all the circumstances where the Division might require a liner. Mr. Speer's stated that the Division has certain location standards that must be adhered to. Specifically, if a facility that was located in an area that wanted to do a cell expansion and those locations standards were not met, then a liner could be as protective as those locations standards and that include certain factors such as certain depth to groundwater, certain tds of the aquifer beneath that cell, and other contamination considerations of that aquifer if there is preexisting contamination.

Mr. Franc asked if any of the existing facilities transferring from a landfarm to a Class VIII facility are lined and if so, is there a grandfather provision in the regulations. Mr. Franc briefly discussed and requested clarification regarding the grandfather provisions and how they relate to existing facilities. Mr. Speer stated that if there was an expansion, those landfills would need to meet the location requirements and may have to install a liner.

Mr. Franc asked if the location standards are similar to the MSW requirements. Mr. Speer responded yes; they have the same requirements.

Nathan Rich provided a comment and asked a few specific questions. Mr. Rich commented that he finds the conversation really interesting as it is not typical for industry advocating for more stringent standards. Mr. Rich also commented that he does not agrees with the idea that there is a U.S. EPA prescriptive liner for waste regulated under Section 320 and discussed his experience regarding liner requirements for C&D and other types of landfill that don't require a liner, so this is a waste-specific situation. Mr. Rich further commented that he understands that this waste has some very specific characteristics and reviewed the characteristics and the possibility of contamination issues. Mr. Rich discussed his experience in permitting Class I landfills and briefly discussed the exemption that a landfill can apply for, which is similar to a variance, which would not require a landfill to have a prescriptive liner. Mr. Rich also reviewed the reasons why he has opted not apply for this type of variance for the landfills he is associated with as a liner feels like cheap insurance. Mr. Rich further

stated that he agrees with the comments made regarding groundwater contamination, and although it is required to be cleaned up, it is very difficult to achieve.

Mr. Rich asked if a facility chose to put in a liner because they felt like that limited their liability, gave them perhaps some better type of environmental performance that they could market to their clients, he assumes there is nothing in this rule that would preclude that approach, i.e., actually building a facility to a higher standard. Ms. Knudsen responded that is correct.

Mr. Rich briefly discussed the requirements of the Utah State Legislature prohibiting the Division making regulations more stringent than federal regulations. Mr. Rich also commented that he appreciated the Memorandum from the Office of the Utah Attorney General provided in the Board's packet addressing the subject of liner requirements for E&P waste landfills and the current regulations being consistent with the current U.S. EPA requirements. Mr. Rich stated that he concurred with that assessment, but questioned if the Board moved to say prescriptive is a liner, but still leaving the option for something similar to a variance, he asked if there would be at risk for a potential challenge as it is more stringent than U.S. EPA standards. Mr. Rich also commented that if that was done, he questioned who might comment during that second public comment period and/or how much pushback would be received, such as a challenge to the rules that might have some legal repercussions. Mr. Rich asked legal counsel present if the Division would be sideways with the Legislature on the more stringent regulations.

Bret Randall, Assistant Attorney General, provided a response to Mr. Rich's comments from the Director's position. First, Mr. Randall indicated that there are no clearly equivalent federal regulations requiring liners for E&P waste landfills. Second, Mr. Randall responded to the comments from Mr. Rich regarding a hypothetical situation where a state regulation may be considered more stringent if there is no clear equivalent federal regulation addressing the same circumstances. Mr. Randall suggested there are two general perspectives as to how to approach a hypothetical situation where there is no equivalent federal regulation addressing the same circumstances. Mr. Randall suggested one perspective is that the absence of an equivalent federal regulation would allow the state to create any rule it found appropriate to account for the absence of an equivalent federal regulation. Mr. Randall offered a second perspective, which is that in the absence of an equivalent federal regulation the question becomes: how would the U.S. EPA regulate using existing federal regulations if those operations were under the U.S. EPA's jurisdiction? Mr. Randall suggested that, in many circumstances, the latter of these two perspectives is generally more accepted than the former.

Mr. Rich stated that he appreciated Mr. Randall's comments and stated that he actually concurs that just because there is no specific mention of E&P waste, the Division is now regulating this as solid waste and clearly solid waste regulations should be applied.

Mr. Franc requested clarification and asked for example if a facility, such as IWM, that currently operates a landfill facility that is currently lined, and under the implemented new rules they build a new cell, that cell could be unlined just like any other company's cells would, etc. Ms. Knudsen responded yes.

There were no additional comments or questions.

Tom Ball, X-Ray and Technical Support Manger in the Division of Waste Management and Radiation Control (Division), reviewed the approval from the Board to proceed with final adoption of proposed 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.

Mr. Ball reminded the Board these rules were presented to the Board at their July 11, 2024, Board meeting and approved to be filed with the Office of Administrative Rules for publication in the *Utah State Bulletin*. The proposed changes were published in the August 1, 2024, issue of the *Utah State Bulletin.*

The Director recommends the Board approve final adoption of the changes to Utah Admin. Code 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, the new rules R315-321, and R31-322 and set an effective date of October 15, 2024.

Raymond Wixom, Assistant Attorney General, provided a comment on behalf of the Director of the Division of Waste Management and Radiation Control, and addressed and cautioned the Board on how the word "variance" was used during the Board's discussion on this matter and briefly clarified how the word "variance" is to be used, as it is a term that is used in the Solid and Hazardous Waste Act.

Mr. Rich stated that he incorrectly utilized the word "variance" and stated perhaps the more appropriate word to use would have been "exception". Mr. Wixom also briefly reviewed the process when the term "variance" is applied in association with state and federal rules.

Mr. Riding requested clarification on the fact that U.S. EPA has seen this rule and has determined that it is comparable with what they would do. Ms. Knudsen stated yes and further commented that the Division asked the U.S. EPA for their concurrence of the proposed rules, and the Division received that concurrence in a letter from the U.S. EPA which was included in the Board's packet.

It was moved by Dr. Steve McIff and seconded by Mark Franc and UNANIMOUSLY CARRIED to proceed with final adoption of proposed 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 and set an effective date of October 15, 2024.

IX. Director's Report.

Executive Director Kim Shelley thanked the Board for their attention on the most recent agenda matter and the thoughtful questions asked.

X. Other Business.

A. Miscellaneous Information Items. – None.

B. Scheduling of next Board meeting (November 14, 2024).

The next Board meeting is scheduled for November 14, 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#

XI. Adjourn.

The meeting adjourned at 3:00 p.m.

Waste Management and Radiation Control Board Meeting Minutes
Utah Department of Environmental Quality
Multi-Agency State Office Building (Conf. Room #1015)
195 North 1950 West, SLC
November 14, 2024
1:30 p.m.

Board Members Participating at Anchor Location: Brett Mickelson (Chair), Mark Franc, Jeremy Hawk, Shane Whitney

Board Members Participating Virtually: Dr. Richard Codell, Nathan Rich, Vern Rogers

Board Members Excused/Absent: Danielle Endres, Dennis Riding (Vice-Chair), Dr. Steve McIff, Kim Shelley, Scott Wardle

UDEQ Staff Members Participating at Anchor Location: Doug Hansen, Brent Everett, Morgan Atkinson, Tom Ball, Brenden Catt, Tyler Hegburg, Chris Howell, Larry Kellum, Jalynn Knudsen, Arlene Lovato, Gabby Marinick, Judy Moran, Deborah Ng, Mike Pecorelli, Elisa Smith

Others Attending at Anchor Location: Steve Gurr

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

This meeting was recorded and an unedited audio of this meeting can be accessed at:
https://www.utah.gov/pmn/files/1195791.mp3

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. Declarations of Conflict of Interest.

Shane Whitney recused himself from voting on Agenda Item VIII. Hazardous Waste Section. (B.) Approval of Proposed Stipulation and Consent Order between the Director and Clean Harbors Environmental Services, and (C.) Approval of Proposed Stipulation and Consent Order between the Director and Clean Harbors Aragonite, LLC

IV. Approval of the meeting minutes for the October 10, 2024, Board meeting (Board Action Item).

The meeting minutes were tabled.

V. Petroleum Storage Tanks Update.

Brent Everett, Director of the Division of Environmental Response and Remediation (DERR), informed the Board that the cash balance of the Petroleum Storage Tank (PST) Enterprise Fund for the end of October 2024, was $37,309,972.00. 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.

Mr. Everett informed the Board that the DERR presented the proposed bill with the PST statute changes to the Revenue and Taxation Committee during the committee's October interim meeting.

The proposed bill with the PST statute changes was passed as a committee bill unanimously. The bill will be presented during the next legislative session.

VI. Administrative Rules.

A. Approval from the Board to procced with formal rulemaking and public comment on proposed changes to Utah Administrative Code R313-28-140 to allow the Director of the Division of Waste Management and Radiation Control to approve renewal applications of mammography imaging medical physicists who have been previously certified by the Waste Management and Radiation Control Board (Board Action Item).

Tom Ball, X-Ray and Technical Support Manager in the Division of Waste Management and Radiation Control (Division), reviewed the request for approval from the Board to procced with formal rulemaking and public comment on proposed changes to Utah Administrative Code R313-28-140 of the Radiation Control Rules to allow the Director of the Division of Waste Management and Radiation Control (Director) to approve renewal applications of Mammography Imaging Medical Physicists, who have been previously certified by the Waste Management and Radiation Control Board (Board).

This agenda item was presented to the Board as an information item during their October 10, 2024, Board meeting. This rule change allows the Director to approve renewal applications of mammography imaging medical physicists who have been previously certified by the Board. This change will create a more efficient and timely process for renewing certifications. Based on comments received by the Board, additional language was also added that requires certifications that have lapsed for a year or more to be brought back to the Board for renewal, rather than being renewed by the Director.

These rule changes do not change any of the requirements that an individual must meet for certification as a mammography imaging medical physicist. Additionally, the Division is fixing 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 December 1, 2024, *Utah State Bulletin* the proposed changes to Utah Admin. Code R313-28-140 and conducting a public comment period from December 1, 2024, to December 31, 2024.

There were no additional comments or questions.

It was moved by Shane Whitney and seconded by Jeremy Hawk and UNANIMOUSLY CARRIED for the Board to proceed with formal rulemaking by publishing in the December 1, 2024, *Utah State Bulletin* the proposed changes to Utah Admin. Code R313-28-140 and conducting a 30-day public comment period from December 1, 2024 to December 31, 2024.

B. Approval from the Board to proceed with formal rulemaking and public comment on proposed changes to Utah Administrative Code R315-260, 261, 262, 264, 265, 266, 268, and 270 to incorporate federal regulatory changes made by the U.S. Environmental Protection Agency (U.S. EPA) and published in the Federal Register on July 7, 2020 (85 FR 40594), September 10, 2021 (86 FR 50647), October 1, 2021 (86 FR 54381), July 13, 2022 (87 FR 41604), March 20, 2023 (88 FR 16732), August 9, 2023 (88 FR 54086), and December 6, 2023 (88 FR 84710). Additionally, Utah Admin. Code R315-265 is being updated by adopting language from 40 CFR 265 into the rule rather than incorporating the language by reference (Board Action Item).

Tom Ball, X-Ray and Technical Support Section Manager in the Division of Waste Management and Radiation Control (Division), reviewed the request for approval from the Waste Management and Radiation Control Board (Board) to proceed with formal rulemaking and public comment on proposed changes to Utah Admin. Code R315-260, 261, 262, 264, 265, 266, 268, and 270 of the hazardous waste rules to incorporate federal regulatory changes made by the U.S. EPA and published in the various *Federal Registers* as detailed in the November 14, 2024, Board packet.

The U.S. EPA has made technical corrections to correct and clarify parts of the hazardous waste regulations. Examples of the types of corrections made include correcting typographical errors, correcting incorrect or outdated citations, and updating addresses of the U.S. EPA offices.

The U.S. EPA has also updated the regulations for the identification of ignitable hazardous waste to modernize the test methods. In modernizing the requirements, one thing the U.S. EPA did was remove the requirements for using mercury thermometers as those are getting harder and harder to come by. The changes provide greater clarity and flexibility in testing requirements and will improve environmental compliance.

The U.S. EPA made changes to regulations related to import-export recovery and disposal operations codes used in hazardous waste export and import notices submitted to U.S. EPA. These changes were made to conform with regulations promulgated in Canada.

The U.S. EPA made editorial and technical revisions to Test Method 23 and these changes were provided in the November 13, 2024, Board packet.

These changes are being made in the Utah Hazardous Waste Rules because Utah is authorized to oversee the hazardous waste program in Utah and must have rules that are equivalent to the federal regulations.

In addition to the changes that the U.S. EPA was making, the Division has made updates to Utah Admin. Code R315-265 by adopting language from 40 CFR 265 into that rule rather than having it be incorporated by reference throughout R315. This update makes a cleaner set of regulations for the regulated community to utilize. Additionally, the Division is fixing a rule citation error found in Utah Admin. Code R315-268-44 and other typographical and formatting errors found in the rules as requested by the Governor's Office.

This is a Board action item, and the Director recommends the Board approve proceeding with formal rulemaking and public comment by publishing in the December 1, 2024, *Utah State Bulletin* the proposed changes to Utah Admin. Code R315-260, 261, 262, 264, 265, 266, 268, and 270 and conducting a public comment period from December 1, 2024, to December 31, 2024.

There were no additional comments or questions.

It was moved by Mark Franc and seconded by Dr. Codell and UNANIMOUSLY CARRIED for the Board to proceed with formal rulemaking by publishing in December 1, 2024, *Utah State Bulletin* the proposed changes to Utah Administrative Code R315-260, 261, 262, 264, 265, 266, 268, and 270 and conducting a 30-day public comment period from December 1, 2024 to December 31, 2024.

VII. Low-Level Radioactive Waste.

A. Energy*Solutions*, LLC request for a one-time, site-specific treatment variance from the Utah Hazardous Waste Management Rule R315-268-40(a)(3) to receive, treat, and macroencapsulate incinerator ash containing dioxin/furan contaminants above Universal Treatment Standards (Information Item).

Tyler Hegburg, Environmental Scientist, Low-Level Radioactive Waste Section in the Division of Waste Management and Radiation Control (Division), introduced Steve Gurr, Energy*Solutions* representative, who presented this site-specific treatment variance request to the Waste Management and Radiation Control Board (Board).
Mr. Gurr informed the Board that Energy*Solutions* seeks a variance from Utah Administrative Code R315-268-40(a)(3) for an incinerator ash waste that meets all treatment standards except those for dioxins and furans as Underlying Hazardous Constituents (UHCs).

The waste consists of incinerator ash containing dioxins and furans contaminants which become introduced to the ash due to the incineration process. Mr. Gurr stated that requiring the waste to meet the dioxins and furans treatment standards is inappropriate based on the processes that generate the waste, which is incineration.

Prior to receiving this variance in 2018, the generator attempted to reduce the concentration of dioxins and furans in the ash by re-incineration; this resulted in very little reduction. The generator has previously analyzed each container of ash for metals contamination. If metals were below the toxicity characteristic concentrations, the waste would be shipped to the Clive facility as low-level radioactive waste and disposed in the Class A Embankment. However, if metals were above the Toxicity Characteristic concentrations, then the waste would need to be treated for those metals as well as all UHCs, including dioxins and furans. It is inappropriate to require treatment of dioxins and furans contaminants in instances where characteristic metals are found in the waste when treatment is not required if metals are below characteristic concentrations in the waste.

Energy*Solutions* proposes to treat the waste for all treatment standards with the exception of the dioxins and furans UHC standards and then to macroencapsulate the residue in MACRO vaults.

Energy*Solutions* has requested this same variance five times previously beginning in 2018, 2019, 2021, 2022, and 2023. For this past year that this variance was in effect, Energy*Solutions* received approximately 30 tons (eight shipments) of this ash for treatment. Energy*Solutions* forecasts similar amounts of approximately 35 tons of this waste to be received over the next year.

Mark Franc asked if the waste contained the same levels of dioxin and furans, but did not contain metals contamination, could it then be disposed of (landfilled) without a variance approval. Mr. Gurr stated yes and explained how Energy*Solutions* would then process and dispose of the waste as a hazardous waste.

Shane Whitney asked if the incinerator ash is considered debris. Mr. Gurr explained that in this case, the ash would not be considered debris and explained why it is not considered debris.

There were no additional comments or questions.

VIII. Hazardous Waste Section.

A. Approval of Proposed Stipulation and Consent Order between the Director and Matt Oviatt regarding the Former Crown Plating Facility (Information Item).

Judy Moran, Environmental Scientist, Hazardous Waste Section in the Division of Waste Management and Radiation Control (Division), informed the Waste Management and Radiation Control Board (Board) that this is an information item and reviewed the proposed Stipulation and Consent Order (SCO) No. 2402031 with Matt Oviatt, owner of the Former Crown Plating Facility.

The SCO settles five violations that were based on information gathered by representatives of the Division. The information demonstrated that Mr. Oviatt acquired and began redeveloping the Former Crown Plating Facility property located at 14 Jeremy Street in Salt Lake City. In the process,

Mr. Oviatt managed hazardous waste in a manner that violated Utah Administrative Code R315 and the Utah Solid and Hazardous Waste Act. Among other requirements, the proposed SCO requires Mr. Oviatt to close the facility under the Division's Environmental Cleanup Program within 18 months of the effective date of the SCO.
The proposed SCO includes a total penalty of $43,160.00, of which $31,200.00 will be paid in cash, with the remaining penalty amount of $11,960.00 to be deferred and waived if conditions specified in the proposed SCO are met.

A notice for public comment was published in the *Salt Lake Tribune* and the *Deseret News* on November 13, 2024. A 30-day public comment period began on November 14, 2024, and will end on December 13, 2024.

Dr. Codell asked if any substantive comments have been received. Ms. Moran replied that the public comment began today, November 14, 2024, so no comments have been received.

Dr. Codell also asked if it was determined if there were any extensive releases of chromate into the shallow groundwater. Ms. Moran replied that two Phase II Environmental Site Assessments (ESAs) have been conducted by the Redevelopment Authority through Salt Lake County on this property and that information has been reviewed by Mr. Oviatt's consultant. Also, the information has been submitted to the Division's Corrective Action Section (CAS) as the CAS will be working together with Mr. Oviatt's consultant to close the facility once the proposed SCO is effective.

Dr. Codell asked if additional extensive testing will be conducted in the areas around the facility for migration of chromium and the cyanide waste that might have also traveled in the shallow groundwater. Ms. Moran replied that she is not involved in the cleanup portion for the facility; and reiterated that the cleanup is being managed under the Division's CAS. Ms. Moran commented that she anticipates that once the SCO is signed, additional investigations will be conducted as a data gap analysis was performed.

Dr. Codell asked who is paying for the environmental studies. Ms. Moran replied that going forward it will be the responsibility of the respondent, Mr. Oviatt. Ms. Moran informed the Board that the two Phase II ESAs that she previously mentioned were conducted under the U.S. Environmental Protection Agency's Brownfields Grants for the Redevelopment Agency of Salt Lake City.

Mark Franc expressed his interest about the timing of all that has occurred at the facility and asked about the history of non-compliance with this facility prior to and after Mr. Oviatt's involvement. Mr. Franc further stated that it appears to be a continuing history of non-compliance after Mr. Oviatt took ownership. Ms. Moran reviewed the compliance history of the facility and stated that the first Phase II ESA was conducted in 2016 prior to Mr. Oviatt being the owner. The second Phase II ESA was conducted in 2023, after Mr. Oviatt became the owner. Ms. Moran reviewed the inspections she conducted and the compliance issues that occurred with the former owner as the party responsible. Ms. Moran stated that the former owner has taken accountability and responsibility. Director Hansen informed the Board that one of the things that the Division was particularly concerned with was memorializing in the SCO is the acknowledgement of both parties responsibility moving forward to ensure the hazardous waste cleanup program requirements are followed in getting the property cleaned-up to a usable condition.

B. Approval of Proposed Stipulation and Consent Order between the Director and Clean Harbors Environmental Services (Board Action Item).

Judy Moran, Environmental Scientist, Hazardous Waste Section in the Division of Waste Management and Radiation Control (Division), reviewed the proposed Stipulation and Consent Order (SCO) No. 2307071 to resolve Notice of Violation and Compliance Order (NOV/CO) No. 2207080 issued to Clean Harbors Environmental Services (CHES) on September 28, 2022.

The NOV/CO was based on information documented during inspections conducted at the "49UT Yard," a warehouse and equipment storage yard, that was being used as hazardous waste (10-day) Transfer Facility on April 12, 2022, and April 27, 2022. Operational changes have been made to prevent the violations documented in the NOV/CO from being repeated. The proposed SCO includes a total penalty of $34,150.00.
A notice for public comment was published in the *Salt Lake Tribune*, and the *Deseret News* on October 9, 2024. A 30-day public comment period began on October 10, 2024, and ended on November 8, 2024; no comments were received.

This is a Board action item and the Director recommends the Board approve the proposed SCO.

There were no additional comments or questions

It was moved by Jeremy Hawk and seconded by Mark Franc and UNANIMOULSY CARRIED to approve the Proposed Stipulation and Consent Order No. 2307071 between the Director and Clean Harbors Environmental Services.

C. Approval of Proposed Stipulation and Consent Order between the Director and Clean Harbors Aragonite, LLC (Board Action Item).

Gabrielle Marinick, Environmental Engineer, Hazardous Waste Section in the Division of Waste Management and Radiation Control (Division), reviewed the proposed Stipulation and Consent Order (SCO) No. 2310118 between the Director and Clean Harbors Aragonite, LLC, to resolve Notice of Violation and Compliance Order (NOV/CO) No. 2306055 issued to Clean Harbors Aragonite, LLC (CHA) on July 19, 2023.

The NOV/CO was based on information documented during an inspection at the facility on August 30 through September 16, 2022, and several self-reported noncompliance issues during the 2022 fiscal year.

All violations have been resolved. The SCO includes a penalty of $55,000.20, of which $20,000.20 will be a cash payment, $20,000 of which will be credited towards two supplemental environmental projects in the form of a $10,000 donation to the Western States Project and a $10,000 donation to the Association of State and Territorial Solid Waste Management Officials, and $15,000 of which will be deferred and may be waived if CHA meets the criteria established in the SCO, which prevents reoccurring violations.

The proposed SCO was presented to the Board as an informational item during their October 10, 2024 Board meeting.

A notice for public comment was published in the *Salt Lake Tribune*, *Deseret News*, and *Tooele Transcript-Bulletin* on October 2, 2024. A 30-day public comment period began on October 3, 2024, and ended on November 1, 2024; no comments were received.

This is a Board action item and the Director recommends the Board approve the proposed SCO.

Nathan Rich asked for background on the two supplemental environmental projects, specifically what they are and how they meet the criteria for an appropriate supplemental environmental project. Ms. Marinick reviewed the two supplemental environmental projects which include two separate donations each of $10,000 to the Western States Project (WSP) and to the Association of State and Territorial Solid Waste Management Officials (ASTSWMO). Ms. Marinick informed the Board that both of these organizations currently provide training to the Division staff.

Mr. Rich asked if these organizations are non-profit organizations. Ms. Marinick stated that both

these organizations are involved in the management of hazardous waste including providing various trainings and workshops that Division staff attend on the various hazardous waste program management issues. Also, these two organizations hold conferences with other states that Division staff attend allowing them to engage with other states regarding waste management issues.

Mr. Rich asked if there are any stipulations or restrictions on how these two organizations will utilize the funds. Ms. Marinick stated there are no stipulations or restrictions outlined in the SCO on how the funds are to be utilized.

Director Hansen informed the Board that both these organizations are non-profit and provided the following additional information regarding these two organizations.

WSP supports the training of hazardous waste inspectors including the Division's legal and enforcement staff and provides regulatory expertise to enhance the environmental enforcement programs of its members. Specifically, WSP is an organization that gives back to the state directly, not only through providing training, but they also fund travel and associated expenses for all its member states. WSP member states include Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, Washington, and some of the provinces of Canada.

ASTSWMO is a national organization supporting the environmental agencies of all states and provides a platform for the state of Utah to engage with other states on the needs of our Division's non-radiation programs by allowing Division staff an opportunity to interface not only with other state members and gain experience and knowledge from that association, but also provides opportunities for Division staff to engage with the U.S. EPA and provide feedback often shaping regulations prior to public comment and also receive information about initiatives and work they are involved in so that the Division staff can be prepared. Through this information sharing and policy crafting it allows the Division staff to interface with the federal government on hazardous waste management for the state of Utah.

It was moved by Nathan Rich and seconded by Vern Rogers and UNANIMOULSY CARRIED to approve the proposed Stipulation and Consent Order (SCO) No. 2310118 between the Director and Clean Harbors Aragonite, LLC.

IX. Director's Report.

Director Hansen provided an update on possible legislation that will be introduced during the 2025 Legislative Session that the Division will be involved in, including the following:

Waste tire modifications are anticipated that will include allowing small county landfills to recycle waste tires on-site, as well as other modifications that will make it easier for the small county landfills to manage waste tires.

Recycling modifications are anticipated that will include changes in the electronic waste recycling arena and other areas of recycling as well.

Director Hansen reviewed Governor Spencer Cox's Operation Gigawatt, which is an initiative to double Utah's power production over the next 10 years. Director Hansen briefly discussed this initiative and the two primary ways this is anticipated to be achieved, which is through geothermal and through nuclear. Director Hansen informed the Board that the Division has been asked to engage and participate in understanding what the ramifications of developing nuclear power within the State of Utah will look like, which includes policies and regulations related to this matter.
Director Hansen stated that at this point, it is unclear what the Division's involvement will be regarding this matter, but he anticipates the Division will have some involvement.

Director Hansen informed the Board that during the month of March 2025 the Board room will be unavailable as it will undergo sound system and camera upgrades. Therefore, the March 2025 Board meeting anchor location will be held in a smaller conference room and is anticipated it to be held predominantly online and encouraged all to participate virtually.

Director Hansen informed the Board that there are no pending action items that will require the Board to meet in December and the December Board meeting was cancelled.

Director Hansen reminded the Board of the requirement that a Board meet is required to be held during each yearly legislative session. To meet this requirement a February 13, 2025, Board meeting will need to be held.

X. Other Business.

A. Miscellaneous Information Items. – None.

B. Scheduling of next Board meeting (January 9, 2025).

The next Board meeting is scheduled for January 9, 2025, 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#

XI. Adjourn.

The meeting adjourned at 2:05 p.m.

PST STATISTICAL SUMMARY

December 1, 2023 -- November 30, 2024

PROGRAM

	December	January	February	March	April	May	June	July	August	September	October	November	(+/-) OR Total
Regulated Tanks	4,222	4,832	4,854	4,858	4,857	4,849	4,836	4,833	4,833	4,832	4,841	4,849	**627**
Tanks with Certificate of Compliance	4,126	4,507	4,529	4,547	4,565	4,577	4,575	4,609	4,616	4,611	4,644	4,651	**525**
Tanks without COC	96	325	325	311	292	272	261	224	217	221	197	198	**102**
Cumulative Facilitlies with Registered A Operators	1,282	1,280	1,280	1,284	1,284	1,277	1,274	1,272	1,270	1,269	1,265	1,265	**83.33%**
Cumulative Facilitlies with Registered B Operators	1,284	1,281	1,281	1,286	1,286	1,289	1,285	1,284	1,283	1,283	1,278	1,278	**84.19%**
New LUST Sites	4	5	6	6	5	6	5	7	8	7	4	4	**67**
Closed LUST Sites	7	3	9	6	9	24	7	5	12	5	4	3	**94**
Cumulative Closed LUST Sites	5598	5635	5642	5648	5653	5677	5682	5694	5703	5707	5711	5717	**119**

FINANCIAL

	December	January	February	March	April	May	June	July	August	September	October	November	(+/-)
Tanks on PST Fund	2,638	2,954	2,967	2,985	2,997	3,003	2,994	3,006	3,025	3,022	3,032	3,039	**401**
PST Claims (Cumulative)	724	726	726	727	727	726	732	731	731	735	734	734	**10**
Equity Balance	$3,538,013	$4,280,066	$4,638,541	$4,512,702	$4,893,606	$5,689,454	$5,800,921	$6,577,483	$8,003,529	$7,824,588	$6,991,673	$7,429,379	**$3,891,366**
Cash Balance	$32,758,050	$33,500,103	$33,858,578	$33,732,739	$34,113,643	$34,909,491	$34,020,958	$35,777,520	$37,223,566	$37,044,625	$37,309,972	$37,747,678	**$4,989,628**
Loans	0	0	0	0	0	0	0	0	0	0	0	0	**0**
Cumulative Loans	129	129	129	129	129	129	129	129	129	129	129	129	**0**
Cumulative Amount	$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	$6,213,705	**$0**
Defaults/Amount	0	0	0	3	3	0	0	0	0	0	0	0	**0**

	December	January	February	March	April	May	June	July	August	September	October	November	TOTAL
Speed Memos	38	82	65	84	84	113	76	79	102	100	135	103	**1,061**
Compliance Letters	5	9	5	7	2	3	1	7	11	3	17	5	**75**
Notice of Intent to Revoke	0	0	0	0	0	0	1	0	0	0	0	0	**1**
Orders	2	1	0	5	1	1	0	1	0	0	0	1	**12**

WASTE MANAGEMENT AND RADIATION CONTROL BOARD
Executive Summary
Final Adoption
Amendments to Utah Administrative Code R313-28-140
January 9, 2025

What is the issue before the Board?	Approval from the Board is needed for final adoption of proposed changes to Utah Administrative Code R313-28-140, to allow the Director of the Division of Waste Management and Radiation Control to approve renewal applications of mammography imaging medical physicists who have been previously certified by the Waste Management and Radiation Control Board.
What is the historical background or context for this issue?	At the Board meeting on November 14, 2024, the Board approved the proposed changes to Utah Administrative Code R313-28-140 to be filed with the Office of Administrative Rules for publication in the *Utah State Bulletin*. The proposed changes were published in the December 1, 2024, issue of the *Utah State Bulletin* (Vol. 2024, No. 23). Selected pages from the *Utah State Bulletin* showing the publication of the proposed changes follow this Executive Summary. The public comment period for this rulemaking ended on December 31, 2024; no comments were received.
What is the governing statutory or regulatory citation?	The Board is authorized under Subsection 19-3-103.1 to make rules that are necessary to implement the Radiation Control Act. The rule changes also meet existing DEQ and state rulemaking procedures.
Is Board action required?	Yes. Board approval for final adoption of the rule changes is necessary.
What is the Division Director's recommendation?	The Director recommends the Board approve final adoption of the changes to Utah Administrative Code R313-28-140 as published in the December 1, 2024, issue of the *Utah State Bulletin* and set an effective date of January 13, 2025.
Where can more information be obtained?	Please contact Tom Ball by email at tball@utah.gov or by phone at 385-454-5574.

DSHW-2024-009695
Attachment: DSHW-2024-009694

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed November 02, 2024, 12:00 a.m. through November 15, 2024, 11:59 p.m.

Number 2024-23
December 01, 2024

Nancy L. Lancaster, Managing Editor

The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah state government. The Office of Administrative Rules, part of the Department of Government Operations, produces the *Bulletin* under authority of Section 63G-3-402.

The Portable Document Format (PDF) version of the *Bulletin* is the official version. The PDF version of this issue is available at https://rules.utah.gov/. Any discrepancy between the PDF version and other versions will be resolved in favor of the PDF version.

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-957-7110. Additional rulemaking information and electronic versions of all administrative rule publications are available at https://rules.utah.gov/.

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)* of the same volume and issue number. The *Digest* is available by e-mail subscription or online. Visit https://rules.utah.gov/ for additional information.

Office of Administrative Rules, Salt Lake City 84114

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

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(b) The public notice requirements in Section R307-401-7 do not apply to the approval of an application to be covered under the general approval order.

(c) The director will maintain a record of stationary sources that are covered by a specific general approval order and this record will be available for public review.

(6) Exclusions and Revocation.

(a) The director may require any source that has applied for or is authorized by a general approval order to submit a notice of intent and obtain an individual approval order under Section R307-401-8. Cases where the director will require an individual approval order include the following:

(i) the director determines that the source does not meet the criteria specified in the general approval order;

(ii) the director determines that the application for the general approval order did not contain [~~all~~]the necessary information to evaluate applicability under the general approval order;

(iii) modifications were made to the source that were not authorized by the general approval order or an individual approval order;

(iv) the director determines the source may cause a violation of a national ambient air quality standard;

(v) the director determines that an approval order is required based on the compliance history and current compliance status of the source or applicant; or

(vi) the director determines that an approval order is required for any other reason.

(b)(i) Any source authorized by a general approval order may request to be excluded from the coverage of the general approval order by submitting a notice of intent under Section R307-401-5 and receiving an individual approval order under Section R307-401-8.

(ii) When the director issues an individual approval order to a source subject to a general approval order, the applicability of the general approval order to the individual source is revoked on the effective date of the individual approval order.

(7) Modification of General Approval Order. The director may modify, replace, or discontinue the general approval order.

(a) Administrative corrections may be made to the existing version of the general approval order. These corrections are to correct typographical errors or similar minor administrative changes.

(b) [~~All~~]Any other modifications or the discontinuation of a general approval order [~~shall~~]may not apply to any source authorized under previous versions of the general approval order unless the owner or operator submits an application to be covered under the new version of the general approval order. Modifications under Subsection R307-401-19(7)(b) shall meet the public notice requirements in Subsection R307-401-19(3).

(c) A general approval order shall be reviewed at least every three years. The review of the general approval order shall follow the public notice requirements of Subsection R307-401-19(3).

(8) Modifications at a source covered by a general approval order. A source may make modifications only as authorized by the approved general approval order. Modifications outside the scope authorized by the approved general approval order shall require a new application for either an individual approval order under Section R307-401-8 or a general approval order under Section R307-401-19.

KEY: air pollution, permits, approval orders, greenhouse gases
Date of Last Change: 2025[~~September 26, 2022~~]
Notice of Continuation: May 4, 2022
Authorizing, and Implemented or Interpreted Law: 19-2-104(3)(b)(iii); 19-2-108

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R313-28-140**	**Filing ID: 56939**

Agency Information

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

General Information

2. Rule or section catchline:

R313-28-140. Qualifications of Mammography Imaging Medical Physicist

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

This rule is being amended to allow the Director of the Division of Waste Management and Radiation Control to approve renewal applications of mammography imaging medical physicists who have been previously certified by the Waste Management and Radiation Control Board.

4. Summary of the new rule or change:

This change amends Subsection R313-28-140(3)(a), formerly Subsection R313-28-140(2)(a), so that the Director of the Division of Waste Management and Radiation Control will approve renewal applications of mammography imaging medical physicists who have been previously certified by the Waste Management and Radiation Control Board. This change will create a more efficient and timely process for renewing certifications.

Additionally, changes are made throughout Section R313-28-140 to conform with the change. Language is also being added to the rule to make it clear that initial certifications expire three years from the date of approval by the Board and renewals expire three years from the date of issuance.

The amendment does not change any of the requirements for renewal applications. Mammography imaging medical physicists who are applying to renew their certifications must still meet all the existing requirements for renewing their certifications.

Fiscal Information

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

A) State budget:

It is not anticipated that this rule change will result in any additional costs to the state budget. There could be savings to the state budget due to the more efficient and timely process but the amount cannot be estimated because it is unknown how many certified mammography imaging medical physicists will choose to renew their certifications in any given year.

B) Local governments:

It is not anticipated that this rule change will result in any costs or savings to local governments because there are no local governments with mammography imaging medical physicists that are certified and there is no fee charged by the state for these certifications.

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

It is not anticipated that this rule change will result in any costs or savings to small businesses because the state does not charge a fee to certify a mammography imaging medical physicist, and this amendment does not change any of the requirements or processes that an individual or business must follow to become certified.

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

It is not anticipated that this rule change will result in any costs or savings to non-small businesses because the state does not charge a fee to certify a mammography imaging medical physicist, and this amendment does not change any of the requirements or processes that an individual or business must follow to become certified.

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 this rule change will result in any costs or savings to persons other than small businesses, non-small businesses, state, or local government entities because the state does not charge a fee to certify a mammography imaging medical physicist, and this amendment does not change any of the requirements or processes that an individual or business must follow to become certified.

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 any impacted entities that must comply with this rule because the state does not charge a fee to certify a mammography imaging medical physicist, and this amendment does not change any of the requirements or processes that an individual or business must follow to become certified.

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	**FY2025**	**FY2026**	**FY2027**
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	**FY2025**	**FY2026**	**FY2027**
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:	12/31/2024

9. This rule change MAY become effective on:	01/13/2025
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Director	**Date:**	11/14/2024

R313. Environmental Quality, Waste Management and Radiation Control, Radiation.
R313-28. Use of X-Rays in the Healing Arts.
R313-28-140. Qualifications of Mammography Imaging Medical Physicist.

(1) An individual seeking certification by the Board for approval as a mammography imaging medical physicist shall file an application for certification either electronically or on forms furnished by the Division. The Board may certify individuals who meet the

requirements for initial qualifications. To remain certified [~~by the Board~~]as a mammography imaging medical physicist[~~,~~] an individual shall get a renewal certification from the director by satisfying the requirements [~~for continuing qualifications~~]found in Subsection R313-28-140(3).

([~~1~~]2) To meet the [~~I~~]initial qualifications the applicant shall:[~~-~~]

(a) [~~B~~]be certified by the American Board of Radiology in Radiological Physics or Diagnostic Radiological Physics, or the American Board of Medical Physicists in Diagnostic Imaging Physics[~~,~~]; and

(b) [~~S~~]satisfy the [~~following~~]educational and experience requirements in Subsections R313-28-140(2)(b)(i) through R313-28-140(2)(b)(iii):

(i) have a master's or higher degree from an accredited university or college in physical sciences;

(ii) have 20 contact hours of documented specialized training in conducting surveys of mammography facilities; and

(iii) have conducted surveys of at least one mammography facility and a total of at least ten mammography units under the direct supervision of a mammography imaging medical physicist approved by the Board. No more than one survey of a specific unit within a period of 60 days can be counted toward the total mammography unit survey requirement.

([~~2~~]3) [~~Continuing qualifications~~]The Board's initial certification shall expire three years from the date of the Board's approval.

(a) [~~To remain certified by the Board,~~]The director may issue a renewal certification to a certified mammography imaging medical physicist if the individual demonstrates compliance with the requirements in Subsections R313-28-140(3)(a)(i) through R313-28-140(3)(a)(ii). To get a renewal certification, a mammography imaging medical physicist previously certified by the Board shall submit an application to the director either electronically or on forms furnished by the Division demonstrating that the individual has met the requirements in Subsections R313-28-140(3)(a)(i) and R313-28-140(3)(a)(ii)[~~for recertification every three years. D~~] during the immediately preceding three[~~-~~] years[~~period the individual shall~~]:

(i) [~~earn~~]Has earned at least 15 hours of continuing educational credits in mammography imaging; and

(ii) Has performed at least three mammography facility surveys and a total of at least nine mammography unit surveys. No more than one survey of a specific facility within a ten-month period or a specific unit within a period of 60 days can be counted toward this requirement.

(b) The director's renewal certification shall expire three years from the date of issuance.

(c) There is no limitation to the number of renewal certifications that a mammography imaging medical physicist previously certified by the Board may get from the director by demonstrating compliance with the requirements of Subsection R313-28-140(3)(a).

([~~3~~]4) Mammography imaging medical physicists whose initial certification or renewal certification, as the case may be, has lapsed:[~~who fail to maintain the required continuing qualifications stated in Subsection R313-28-140(2) shall re-establish their qualifications before independently surveying another mammography facility. To re-establish their qualifications, mammography imaging physicists who fail to meet:~~]

(a) may continue to perform surveys if working under the direct supervision of a mammography imaging medical physicist with a current certification or renewal certification; and[~~the continuing education requirements of Subsection R313-28-140(2)(a)(i) shall obtain enough continuing educational credits to bring their total credits up to the required 15 in the previous three years; or~~]

(b) may not perform independent surveys before their certification is renewed by the director. To get a renewal certification the individual shall comply with the requirements in Subsection R313-28-140(3)(a).[~~the continuing experience requirement of Subsection R313-28-140(2)(a)(ii) shall obtain experience by performing enough surveys to bring their total surveys up to at least three mammography facility surveys and a total of at least nine mammography unit surveys under the direct supervision of a mammography imaging medical physicist approved by the Board. No more than one survey of a specific facility within a ten-month period or a specific unit within a period of 60 days can be counted toward this requirement.~~]

(c) Renewal certifications for mammography imaging medical physicists whose initial certification or renewal certification, as the case may be, has lapsed for one year or more shall be approved by the Board and may not be approved by the director.

KEY: dental, X-rays, mammography, beam limitation
Date of Last Change: 2025[~~June 17, 2024~~]
Notice of Continuation: April 8, 2021
Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-6-107

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R315-260**	**Filing ID: 56940**

Agency Information

1. Title catchline:	Environmental Quality, Waste Management and Radiation Control, Waste Management
Building:	MASOB
Street address:	195 N. 1950 W.
City, state:	Salt Lake City, Utah
Mailing address:	PO Box 144880
City, state and zip:	Salt Lake City, Utah 84114-4880

WASTE MANAGEMENT AND RADIATION CONTROL BOARD
Executive Summary
Final Adoption
Amendments to Utah Administrative Code R315-260, 261, 262, 264, 265, 266, 268, and 270
January 9, 2025

What is the issue before the Board?	Approval from the Board is needed for final adoption of proposed changes to Utah Administrative Code R315-260, 261, 262, 264, 265, 266, 268, and 270, to incorporate federal regulatory changes made by the U.S. Environmental Protection Agency (U.S. EPA). Additionally, Utah Administrative Code R315-265 is being updated by adopting language from 40 CFR 265 into the rule rather than incorporating the language by reference.
What is the historical background or context for this issue?	At the Board meeting on November 14, 2024, the Board approved the proposed changes to Utah Administrative Code R315-260, 261, 262, 264, 265, 266, 268, and 270 to be filed with the Office of Administrative Rules for publication in the *Utah State Bulletin*. The proposed changes were published in the December 1, 2024, issue of the *Utah State Bulletin* (Vol. 2024, No. 23). Selected pages from the *Utah State Bulletin* showing the publication of the proposed changes follow this Executive Summary. The public comment period for this rulemaking ended on December 31, 2024; no comments were received.
What is the governing statutory or regulatory citation?	The Board is authorized under Subsection 19-6-105 to make rules governing generators and transporters of hazardous waste and owners and operators of hazardous waste treatment, storage and disposal facilities. The rule changes also meet existing DEQ and state rulemaking procedures.
Is Board action required?	Yes. Board approval for final adoption of the rule changes is necessary.
What is the Division Director's recommendation?	The Director recommends the Board approve final adoption of the changes to Utah Administrative Code R315-260, 261, 262, 264, 265, 266, 268, and 270, as published in the December 1, 2024, issue of the *Utah State Bulletin* and set an effective date of January 13, 2025.
Where can more information be obtained?	Please contact Tom Ball by email at tball@utah.gov or by phone at 385-454-5574.

DSHW-2024-009693
Attachment: DSHW-2024-009692

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed November 02, 2024, 12:00 a.m. through November 15, 2024, 11:59 p.m.

Number 2024-23
December 01, 2024

Nancy L. Lancaster, Managing Editor

The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah state government. The Office of Administrative Rules, part of the Department of Government Operations, produces the *Bulletin* under authority of Section 63G-3-402.

The Portable Document Format (PDF) version of the *Bulletin* is the official version. The PDF version of this issue is available at https://rules.utah.gov/. Any discrepancy between the PDF version and other versions will be resolved in favor of the PDF version.

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-957-7110. Additional rulemaking information and electronic versions of all administrative rule publications are available at https://rules.utah.gov/.

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)* of the same volume and issue number. The *Digest* is available by e-mail subscription or online. Visit https://rules.utah.gov/ for additional information.

Office of Administrative Rules, Salt Lake City 84114

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

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(b) The director's renewal certification shall expire three years from the date of issuance.

(c) There is no limitation to the number of renewal certifications that a mammography imaging medical physicist previously certified by the Board may get from the director by demonstrating compliance with the requirements of Subsection R313-28-140(3)(a).

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Date of Last Change: 2025[~~June 17, 2024~~]
Notice of Continuation: April 8, 2021
Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-6-107

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R315-260**	**Filing ID: 56940**

Agency Information

1. Title catchline:	Environmental Quality, Waste Management and Radiation Control, Waste Management
Building:	MASOB
Street address:	195 N. 1950 W.
City, state:	Salt Lake City, Utah
Mailing address:	PO Box 144880
City, state and zip:	Salt Lake City, Utah 84114-4880

Contact persons:		
Name:	**Phone:**	**Email:**
Tom Ball	385-454-5587	tball@utah.gov
Kari Lundeen	385-499-4923	klundeen@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R315-260. Hazardous Waste Management System

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

The EPA made technical corrections that correct or clarify parts of the hazardous waste regulations. Examples of the types of corrections being made include correcting typographical errors, correcting incorrect or outdated citations, and updating addresses. These changes are being made in the Utah Hazardous Waste Rules because Utah is authorized to oversee the hazardous waste program in Utah and must have rules that are equivalent to the federal regulations.

4. Summary of the new rule or change:

A citation to Section R315-262-34 found in Subsection R315-260-10(c)(58) is being updated to the correct citation that is Sections R315-262-16 and R315-262-17.
The date of the incorporation by reference found in Section R315-260-11 is being updated to 2020.
Additionally, the Division is correcting formatting and typographical errors discovered during the process of reviewing and amending the rule.

Fiscal Information

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

A) State budget:

It is not anticipated that the amendments to this rule will cause any cost or savings to the state budget because they do not add or remove any requirements from the rule.

B) Local governments:

It is not anticipated that the amendments to this rule will cause any cost or savings to local governments because they do not add or remove any requirements from the rule.

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

It is not anticipated that the amendments to this rule will cause any cost or savings to small businesses that must comply with the rule because they do not add or remove any requirements from the rule.

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

It is not anticipated that the amendments to this rule will cause any cost or savings to non-small businesses that must comply with the rule because they do not add or remove any requirements from the rule.

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 amendments to this rule will cause any cost or savings to persons other than small businesses, non-small businesses, state or local government entities that must comply with the rule because they do not add or remove any requirements from the rule.

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

Because the changes to this rule do not add or remove any requirements from the rule it is not anticipated that there will be any new compliance costs for any affected persons due to the changes.

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	**FY2025**	**FY2026**	**FY2027**
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	**FY2025**	**FY2026**	**FY2027**
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 19-1-301	Section 19-6-105	Section 19-6-106

Incorporations by Reference Information

7. Incorporations by Reference:

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

Official Title of Materials Incorporated (from title page)	Title 40 – Protection of the Environment, Chapter I – Environmental Protection Agency, Subchapter I – Solid Wastes, Part 260 – Hazardous Waste Management System: General, Subpart B – Definitions, Section 260.11 Incorporation by reference.
Publisher	United States Federal Government
Issue Date	September 30, 2024
Issue or Version	July 7, 2020

Public Notice Information

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

A) Comments will be accepted until:	12/31/2024

9. This rule change MAY become effective on:	01/13/2025

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

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Director	**Date:**	11/14/2024

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-260. Hazardous Waste Management System.
R315-260-10. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(32) "CRT processing" means conducting each of the following activities:

(i) receiving broken or intact CRTs; and

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

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

(33) "Designated facility" means:

(i) [~~A~~]a hazardous waste treatment, storage, or disposal facility [~~which~~]that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(52) "Explosives or munitions emergency" means a situation involving the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, an improvised explosive device (IED), other potentially explosive material or device, or other potentially harmful military chemical munitions or device, that creates an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an explosives or munitions emergency response specialist. These situations may require immediate and expeditious action by an explosives or munitions emergency response specialist to control, mitigate, or eliminate the threat.

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

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

(55) "Facility" means:

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

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

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

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

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

(58) "Final closure" means the closure of each hazardous waste management unit at the facility in accordance with any applicable closure requirements so that hazardous waste management activities under Rules R315-264 and R315-265 are no longer conducted at the facility unless subject to the provisions in Sections R315-262-[~~34~~]16 and R315-262-17.

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

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

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

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

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

(64) "Hazard class" means:

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

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

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

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

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

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

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

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

(71) "Incinerator" means any enclosed device that:

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

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

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

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

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

(iii) see Appendix V to Rule R315-264 in Section R315-264-1105 and Appendix V to [~~40 CFR~~]Rule R315-265 in Section R315-265-1400[~~, which is incorporated by reference into Section R315-265-1,~~] for examples.

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

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

(i) cement kilns;

(ii) lime kilns;

(iii) aggregate kilns;

(iv) phosphate kilns;

(v) coke ovens;

(vi) blast furnaces;

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

(viii) titanium dioxide chloride process oxidation reactors;

(ix) methane reforming furnaces;

(x) pulping liquor recovery furnaces;

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

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

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

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

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

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

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

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

(F) other factors, as appropriate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(102) "No free liquids, as used in Subsections R315-261-4(a)(26) and R315-261-4(b)(18)", means that solvent-contaminated wipes may not contain free liquids as determined by Method 9095B, Paint Filter Liquids Test, included in "Test Methods for Evaluating Solid Waste,

Physical/Chemical Methods," EPA Publication SW-846, and that there is no free liquid in the container holding the wipes. No free liquids may also be determined using another standard or test method as defined by the [~~D~~]director.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(123) "Qualified Ground Water Scientist" means a scientist or engineer who has received a baccalaureate or post-graduate degree in the natural sciences or engineering, and has sufficient training and experience in ground water hydrology and related fields as may be

demonstrated by state registration, professional certifications, or completion of accredited university courses that enable that individual to make sound professional judgments regarding ground water monitoring and contaminant fate and transport.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(138) "Solvent-contaminated wipe" means:

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

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

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

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

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

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

(140) "Sorb" means to either adsorb or absorb, or both.

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

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

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

(144) "State" means the state of Utah.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(166)(i) "Universal waste handler" means:

(A) a generator of universal waste; or

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

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

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

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

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

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

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

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

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

(i) [~~I~~]is required to use a manifest to comply with:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(178) "Well injection": See "underground injection"

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

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

R315-260-11. Incorporation by Reference[s].

(a) For purposes of Rules R315-260 through R315-266, R315-268, R315-270, and R315-273, Rule R315-15 and Rule R315-101, the references of 40 CFR 260.11, [2015]2020 ed, [with the modifications to 40 CFR 260.11 adopted in Federal Register Vol. 81, No 228 page 85713 and page 85806 published on November 28, 2016, are adopted and]is incorporated by reference.

KEY: hazardous waste
Date of Last Change: 2024[January 26, 2023]
Notice of Continuation: January 14, 2021
Authorizing, and Implemented or Interpreted Law: 19-1-301; 19-6-105; 19-6-106

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R315-261**	**Filing ID: 56941**

Agency Information

1. Title catchline:	Environmental Quality, Waste Management and Radiation Control, Waste Management	
Building:	MASOB	
Street address:	195 N. 1950 W.	
City, state:	Salt Lake City, Utah	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, Utah 84114-4880	
Contact persons:		
Name:	**Phone:**	**Email:**
Tom Ball	385-454-5587	tball@utah.gov
Kari Lundeen	385-499-4923	klundeen@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

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

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

The EPA made technical corrections that correct or clarify parts of the hazardous waste regulations. Examples of the types of corrections being made include correcting typographical errors, correcting incorrect or outdated citations, updating outdated and incorrect wording, and updating addresses.
EPA has also updated the regulations for the identification of ignitable hazardous waste to modernize the test methods that currently require the use of mercury thermometers. The changes provide greater clarity and flexibility in testing requirements and will improve environmental compliance.
These changes are being made in the Utah Hazardous Waste Rules because Utah is authorized to oversee the hazardous waste program in Utah and must have rules that are equivalent to the federal regulations.

4. Summary of the new rule or change:

Language in Subsections R315-261-4(a)(25)(vi), (vii), and (xi) is being updated to reflect changes that EPA has made to the processes for exporting hazardous secondary materials out of the United States.
The rule citation contained in Subsection R315-261-6(c)(1) is being updated to include citations to specific sections of Rules R315-264 and R315-265 to clarify the rules that owners and operators of facilities that store recyclable materials are regulated under.
Subsection R315-261-11(c) is being deleted because Section R315-261-5 was removed from the rules in a previous amendment.
Subsections R315-261-21(a)(1) and (a)(3)(ii) are being amended to update the test methods required to be used to determine if a hazardous waste has the characteristic of ignitability to more modern methods.
The terms Class A explosive and Class B explosive are being replaced in Subsection R315-261-21(a)(4)(i)(A) with the current DOT classification system for explosives.
Notes 1, 2, 3, and 4 are being deleted from Section R315-261-21 because they are outdated or no longer necessary.

Changes are being made to Subsection R315-261-30(d) replacing the words "exclusion limits" with "generator category limits" make the rule clearer. The citation to Section R315-261-5, which was removed in a previous amendment, is being replaced with a citation to Table 1 in Section R315-262-13.
The citation to 40 CFR 265.143(i) in Subsection R315-261-143(a)(7) is being corrected to Subsection R315-261-143(i).
The numbering of some sections of the wording for a corporate guarantee found in Subsection R315-261-151(g)(1) are being changed.
Language was added to Subsection R315-261-411(d)(3) to clarify that the hazardous secondary material generator or intermediate or reclamation facility that must comply with this rule is one that is operating under a verified recycler variance under Subsection R315-260-31(d). Additionally, the citation to Section R315-263-33 is being deleted because the same requirements exist already in Subsection R315-261-411(d)(3).
Language was added to Subsection R315-261-420(b)(2) to clarify that the hazardous secondary material generator or intermediate or reclamation facility that must comply with this rule is one that is operating under a verified recycler variance under Subsection R315-260-31(d).
The citations to Subsections R315-261-1082(c)(1) found in R315-261-1083(a)(1) and R315-261-1084(j)(2)(i) are being corrected to Subsection R315-261-1082(c).
The citation to Subsection R315-261-1085(b)(1)(i) found in Subsection R315-261-1083(c)(4) is being corrected to Subsection R315-261-1084(b)(1)(i).
The citation to Subsection R315-261-1080(b)(7) or (d) found in Subsection R315-261-1089(a) is being corrected to Subsection R315-261-1080(a).
The citation to Subsection R315-261-1082(c)(1) or (c)(2)(i) through (vi) found in Subsection R315-261-1089(f) is being corrected to Subsection R315-261-1082(c).
The citation to Subsection R315-261-1084(l) or R315-261-1085(g) found in Subsection R315-261-1089(g) is having Subsection R315-261-1085(g) removed.
The date of the incorporation by reference found in Section R315-261-1093 is being updated to 2022.
Additionally, the Division is correcting formatting and typographical errors discovered during the process of reviewing and amending the rule.

Fiscal Information

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

A) State budget:

It is not anticipated that the amendments to this rule will cause any cost or savings to the state budget because they do not add any new or remove any existing requirements from the rule.

B) Local governments:

It is not anticipated that the amendments to this rule will cause any cost or savings to local governments because they do not add any new or remove any existing requirements from the rule.

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

It is not anticipated that the amendments to this rule will cause any cost or savings to small businesses that must comply with the rule because they do not add any new or remove any existing requirements from the rule.

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

It is not anticipated that the amendments to this rule will cause any cost or savings to non-small businesses that must comply with the rule because they do not add any new or remove any existing requirements from the rule.

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 amendments to this rule will cause any cost or savings to persons other than small businesses, non-small businesses, state or local government entities that must comply with the rule because they do not add any new or remove any existing requirements from the rule.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**
Because the changes to this rule do not add any new or remove any existing requirements from the rule it is not anticipated that there will be any new compliance costs for any affected persons due to the changes.

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	**FY2025**	**FY2026**	**FY2027**
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	**FY2025**	**FY2026**	**FY2027**
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 19-6-105	Section 19-6-106	

Incorporations by Reference Information

7. Incorporations by Reference :	
A) This rule adds or updates the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	Title 40 – Protection of the Environment, Chapter I – Environmental Protection Agency, Subchapter I – Solid Wastes, Part 261 – Identification and Listing of Hazardous Waste, Appendix IX to Part 261 – Waste Excluded Under 260.20 and 260.22.
Publisher	United States Federal Government
Issue Date	July 31, 2022

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	12/31/2024

9. This rule change MAY become effective on:	01/13/2025
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Director	**Date:**	11/14/2024

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-261. General Requirements -- Identification and Listing of Hazardous Waste.
R315-261-1. Purpose and Scope.

(a) This rule identifies those solid wastes [~~which~~]that are subject to regulation as hazardous wastes under Rules R315-262 through R315-265, R315-268, R315-270, and R315-124 and [~~which~~]that are subject to the notification requirements of [~~these r~~]Rules R315-261 through R315-265, R315-268, R315-270, R315-273 and R315-124.

(1) Sections R315-261-1 through R315-261-9 define the terms "solid waste" and "hazardous waste", identif[~~ies~~]y those wastes [~~which~~]that are excluded from regulation under Rules R315-262 through R315-266, R315-268 and R315-270 and establish special management requirements for hazardous waste [~~which~~]that is recycled.

(2) Sections R315-261-10 and R315-261-11 set forth the criteria used to identify characteristics of hazardous waste and to list particular hazardous wastes.

(3) Sections R315-261-20 through R315-261-24 identify characteristics of hazardous waste.

(4) Sections R315-261-30 through R315-261-35 list particular hazardous wastes.

(b)(1) The definition of solid waste contained in this rule applies only to wastes that also are hazardous for purposes of the rules implementing Title 19 Chapter 6, Hazardous Substances. For example, it does not apply to materials such as non-hazardous scrap, paper, textiles, or rubber that are not otherwise hazardous wastes and that are recycled.

(2) Rule R315-261 [~~identifies only some~~]does not identify each of the materials [~~which~~]that are solid wastes and hazardous wastes under the Utah Solid and Hazardous Waste Act. A material [~~which~~]that is not defined as a solid waste in Rule R315-261, or is not a hazardous waste identified or listed in Rule R315-261, is still a solid waste and a hazardous waste for purposes of [~~these sections~~]the Utah Solid and Hazardous Waste Act if:

(i) in the case of Section 19-6-109, the [~~Director~~]director has reason to believe that the material may be a solid waste within the meaning of Subsection 19-6-102(13) and a hazardous waste within the meaning of Subsection 19-6-102(7); or

(ii) in the case of Section 19-6-115, the material is presenting an imminent and substantial danger to human health or the environment.

(c) For the purposes of Sections R315-261-2 and R315-261-6:

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

(2) "Sludge" has the meaning used in Section R315-260-10.

(3) A "by-product" is a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms. The term does not include a co-product that is produced for the general public's use and is ordinarily used in the form it is produced by the process.

(4) A material is "reclaimed" if it is processed to recover a usable product, or if it is regenerated. Examples are recovery of lead values from spent batteries and regeneration of spent solvents. In addition, for purposes of Subsections R315-261-4(a)(23), and R315-261-4(a)(24) smelting, melting and refining furnaces are considered to be solely engaged in metals reclamation if the metal recovery from the hazardous secondary materials meets the requirements specified for metals recovery from hazardous waste found in Subsections R315-266-100(d)(1) through R315-266-100(d)(3), and if the residuals meet the requirements specified in Section R315-266-112.

(5) A material is "used or reused" if it is either:

(i) [~~employed~~]used as an ingredient, including use as an intermediate, in an industrial process to make a product, for example, distillation bottoms from one process used as feedstock in another process. However, a material will not satisfy this condition if distinct components of the material are recovered as separate end products, as when metals are recovered from metal-containing secondary materials; or

(ii) [~~employed~~]used in a particular function or application as an effective substitute for a commercial product, for example, spent pickle liquor used as phosphorous precipitant and sludge conditioner in wastewater treatment.

(6) "Scrap metal" is bits and pieces of metal parts; for example bars, turnings, rods, sheets, or wire; or metal pieces that may be combined together with bolts or soldering; for example radiators, scrap automobiles, or railroad box cars; which [~~when~~]if worn or superfluous can be recycled.

(7) A material is "recycled" if it is used, reused, or reclaimed.

(8) A material is "accumulated speculatively" if it is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled[~~:~~] and that during the calendar year, commencing on January 1, the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75% [~~percent~~]by weight or volume of the amount of that material accumulated at the beginning of the period. Materials shall be placed in a storage unit with a label indicating the first date that the material began to be accumulated. If placing a label on the storage unit is not practicable, the accumulation period shall be documented through an inventory log or other appropriate method. In calculating the percentage of turnover, the 75% [~~percent~~]requirement is to be applied to each material of the same type, for example, slags from a single smelting process, that is recycled in the same way, that is, [~~from which~~]that the same material is recovered from or that is used in the same way.

Materials accumulating in units that would be exempt from regulation under Subsection R315-261-4(c) are not to be included in making the calculation. Materials that are already defined as solid wastes also are not to be included in making the calculation. Materials are no longer in this category once they are removed from accumulation for recycling, however.

(9) "Excluded scrap metal" is processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal.

(10) "Processed scrap metal" is scrap metal [~~which~~]that has been manually or physically altered to either separate it into distinct materials to enhance economic value or to improve the handling of materials. Processed scrap metal includes[~~, but is not limited to~~] scrap metal [~~which~~]that has been baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type, [~~i.e.~~]that is, sorted, and, fines, drosses and related materials [~~which~~]that have been agglomerated. [~~Note: s~~]Shredded circuit boards being sent for recycling are not considered processed scrap metal. They are covered under the exclusion from the definition of solid waste for shredded circuit boards being recycled Subsection R315-261-4(a)(14).

(11) "Home scrap metal" is scrap metal as generated by steel mills, foundries, and refineries such as turnings, cuttings, punchings, and borings.

(12) "Prompt scrap metal" is scrap metal as generated by the metal working or fabrication industries and includes [~~such~~]scrap metal such as turnings, cuttings, punchings, and borings. Prompt scrap is also known as industrial or new scrap metal.

R315-261-4. Exclusions.

(a) Materials [~~which~~]that are not solid wastes. The [~~following~~]materials listed in Subsections R315-261-4(a)(1) through R315-261-4(a)(27) are not solid wastes for [~~the purpose of~~]Rule R315-261:

(1)(i) domestic sewage; and

(ii) any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly-owned treatment works for treatment, except as prohibited by Section R315-266-505 and Clean Water Act requirements at 40 CFR 403.5(b). "Domestic sewage" means untreated sanitary wastes that pass through a sewer system.

(2) Industrial wastewater discharges that are point source discharges subject to regulation under section 402 of the Clean Water Act, as amended. This exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected, stored or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment.

(3) Irrigation return flows.

(4) Source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.

(5) Materials subjected to in-situ mining techniques [~~which~~]that are not removed from the ground as part of the extraction process.

(6) Pulping liquors that is black liquor, that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless it is accumulated speculatively as defined in Subsection R315-261-1(c).

(7) Spent sulfuric acid used to produce virgin sulfuric acid provided it is not accumulated speculatively as defined in Subsection R315-261-1(c).

(8) Secondary materials that are reclaimed and returned to the original process or processes [~~in which~~]that they were generated in [~~when~~]if they are reused in the production process provided:

(i) only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

(ii) reclamation does not involve controlled flame combustion, such as occurs in boilers, industrial furnaces, or incinerators;

(iii) the secondary materials are never accumulated in tanks for over [~~twelve~~]12 months without being reclaimed; and

(iv) the reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal.

(9)(i) Spent wood preserving solutions that have been reclaimed and are reused for their original intended purpose.

(ii) Wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood.

(iii) Before reuse, the wood preserving wastewaters and spent wood preserving solutions described in Subsections R315-261-4(a)(9)(i) and R315-261-4(a)(9)(ii), so long as they meet the [~~following~~]conditions contained in Subsections R315-261-4(a)(9)(iii)(A) through R315-261-4(a)(9)(iii)(E):

(A) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water borne plants in the production process for their original intended purpose.

(B) Before reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or groundwater or both.

(C) Any unit used to manage wastewaters or spent wood preserving solutions or both before reuse can be visually or otherwise determined to prevent releases.

(D) Any drip pad used to manage the wastewaters or spent wood preserving solutions or both before reuse complies with the standards in [~~40 CFR~~]Sections R315-265[~~-~~]-440 through R315-265[~~-~~]-445,[~~, which are adopted and incorporated by reference,~~] regardless of whether the plant generates a total of less than 100 kg/month of hazardous waste.

(E) Before operating pursuant to this exclusion, the plant owner or operator prepares a one-time notification stating that the plant intends to claim the exclusion, giving the date [~~on which~~]when the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant shall maintain a copy of that document in its on-site records until closure of the facility. The exclusion applies so long as the plant meets each of the conditions. If the plant goes out of compliance with any condition, it may apply to the director for reinstatement. The director may reinstate the exclusion upon finding that the plant has returned to compliance with each of the conditions and that the violations are not likely to recur.

(10) EPA Hazardous Waste Nos. K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are hazardous only because they exhibit the Toxicity Characteristic specified in Section R315-261-24, [~~subsequent~~

~~to~~]after generation, these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or mixed with coal tar before the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the wastes from the point they are generated to the point they are recycled to coke ovens or tar recovery or refining processes, or mixed with coal tar.

(11) Nonwastewater splash condenser dross residue from the treatment of K061 in high temperature metals recovery units, provided it is shipped in drums, if shipped and not land disposed before recovery.

(12)(i) Oil-bearing hazardous secondary materials that is sludges, byproducts, or spent materials, that are generated at a petroleum refinery, SIC code 2911, and are inserted into the petroleum refining process, SIC code 2911-including[~~, but not limited to,~~] distillation, catalytic cracking, fractionation, or thermal cracking units namely cokers, unless the material is placed on the land, or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under Subsection R315-261-4(12)(i), provided the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the petroleum refinery when they are generated, or sent directly to another petroleum refinery and still be excluded under this provision. Except as provided in Subsection R315-261-4(a)(12)(ii), oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry namely from sources other than petroleum refineries, are not excluded under Section R315-261-4. Residuals generated from processing or recycling materials excluded under Subsection R315-261-4(a)(12)(i), if the materials as generated would have otherwise met a listing under Sections R315-261-30 through R315-261-35, are designated as F037 listed wastes if disposed of or intended for disposal.

(ii) Recovered oil that is recycled in the manner and with the conditions as described in Subsection R315-261-4(a)(12)(i). Recovered oil is oil that has been reclaimed from secondary materials, including wastewater, generated from normal petroleum industry practices, including refining, exploration and production, bulk storage, and transportation incident thereto, SIC codes 1311, 1321, 1381, 1382, 1389, 2911, 4612, 4613, 4922, 4923, 4789, 5171, and 5172. Recovered oil does not include oil-bearing hazardous wastes listed in Sections R315-261-30 through R315-261-35; however, oil recovered from these wastes may be considered recovered oil. Recovered oil does not include used oil as defined in Subsection 19-6-703(19).

(13) Excluded scrap metal includes processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal being recycled.

(14) Shredded circuit boards being recycled provided they are:

(i) stored in containers sufficient to prevent a release to the environment before recovery; and

(ii) free of mercury switches, mercury relays and nickel-cadmium batteries and lithium batteries.

(15) Condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with 40 CFR 63.446(e). The exemption applies only to combustion at the mill generating the condensates.

(16) Reserved.

(17) Spent materials, as defined in Section R315-261-1, other than hazardous wastes listed in Sections R315-261-30 through R315-261-35, generated within the primary mineral processing industry [~~from which~~]that minerals, acids, cyanide, water, or other values are recovered from by mineral processing or by beneficiation, provided:

(i) the spent material is legitimately recycled to recover minerals, acids, cyanide, water or other values;

(ii) the spent material is not accumulated speculatively; and

(iii) except as provided in Subsection R315-261-4(a)(17)(iv), the spent material is stored in tanks, containers, or buildings meeting the following minimum integrity standards: a building shall be an engineered structure with a floor, walls, and a roof each being made of non-earthen materials providing structural support, except smelter buildings may have partially earthen floors provided the secondary material is stored on the non-earthen portion, and have a roof suitable for diverting rainwater away from the foundation; a tank shall be free standing, not be a surface impoundment, as defined in Section R315-260-10, and be manufactured of a material suitable for containment of its contents; a container shall be free standing and be manufactured of a material suitable for containment of its contents. If tanks or containers contain any particulate [~~which~~]that may be subject to wind dispersal, the owner or operator shall operate these units in a manner [~~which~~]that controls fugitive dust. Tanks, containers, and buildings shall be designed, constructed and operated to prevent significant releases to the environment of these materials.

(iv) The director may make a site-specific determination, after public review and comment, that only solid mineral processing spent material may be placed on pads rather than tanks containers, or buildings. Solid mineral processing spent materials do not contain any free liquid. The director shall affirm that pads are designed, constructed and operated to prevent significant releases of the secondary material into the environment. Pads shall provide the degree of containment [~~afforded~~]given by the non-RCRA tanks, containers and buildings eligible for exclusion.

(A) The director shall also consider if storage on pads poses the potential for significant releases via groundwater, surface water, and air exposure pathways. Factors to be considered for assessing the groundwater, surface water, air exposure pathways are:

(I) [~~T~~]the volume and physical and chemical properties of the secondary material, including its potential for migration off the pad;

(II) the potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway[~~,~~]; and

(III) the possibility and extent of harm to human and environmental receptors via each exposure pathway.

(B) Pads shall meet the following minimum standards: Be designed of non-earthen material that is compatible with the chemical nature of the mineral processing spent material, capable of withstanding physical stresses associated with placement and removal, have run[-]-on and runoff controls, or both, be operated in a manner [~~which~~]that controls fugitive dust, and have integrity assurance through inspections and maintenance programs.

(C) Before making a determination under Subsection R315-261-4(a)(17)(iv), the director shall provide notice and the opportunity for comment to each person potentially interested in the determination. This can be accomplished by placing notice of this action in major local newspapers, or broadcasting notice over local radio stations.

(v) The owner or operator provides notice to the director providing the following information: t[~~T~~]he types of materials to be recycled; the type and location of the storage units and recycling processes; and the annual quantities expected to be placed in land-based units. This notification shall be updated if there is a change in the type of materials recycled or the location of the recycling process.

(vi) For purposes of Subsection R315-261-4(b)(7), mineral processing spent materials shall be the result of mineral processing and may not include any listed hazardous wastes. Listed hazardous wastes and characteristic hazardous wastes generated by non-mineral processing industries are not eligible for the conditional exclusion from the definition of solid waste.

(18) Petrochemical recovered oil from an associated organic chemical manufacturing facility, if the oil is to be inserted into the petroleum refining process, SIC code 2911, along with normal petroleum refinery process streams, provided:

(i) the oil is hazardous only because it exhibits the characteristic of ignitability, as defined in Section R315-261-21, or toxicity for benzene or both, Section R315-261-24, waste code D018; and

(ii) the oil generated by the organic chemical manufacturing facility is not placed on the land, or speculatively accumulated before being recycled into the petroleum refining process. An "associated organic chemical manufacturing facility" is a facility where the primary SIC code is 2869, but where operations may also include SIC codes 2821, 2822, and 2865; and is physically co-located with a petroleum refinery; and where the petroleum refinery [~~to which~~]that the oil being recycled is returned to also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. "Petrochemical recovered oil" is oil that has been reclaimed from secondary materials that is sludges, byproducts, or spent materials, including wastewater, from normal organic chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes.

(19) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid unless the material is placed on the land, or accumulated speculatively as defined in Subsection R315-261-1(c).

(20) Hazardous secondary materials used to make zinc fertilizers, provided the [~~following~~]conditions specified in Subsections R315-261-4(a)(20)(i) through R315-261-4(a)(20)(v) are satisfied:

(i) Hazardous secondary materials used to make zinc micronutrient fertilizers [~~shall~~]may not be accumulated speculatively, as defined in Subsection R315-261-1(c)(8).

(ii) Generators and intermediate handlers of zinc-bearing hazardous secondary materials that are to be incorporated into zinc fertilizers shall:

(A) Submit a one-time notice to the director, which contains the name, address and EPA ID number of the generator or intermediate handler facility, provides a brief description of the secondary material that will be subject to the exclusion, and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions specified in Subsection R315-261-4(a)(20).

(B) Store the excluded secondary material in tanks, containers, or buildings that are constructed and maintained in a way that prevents releases of the secondary materials into the environment. At a minimum, any building used for this purpose shall be an engineered structure made of non-earthen materials that provide structural support, and shall have a floor, walls and a roof that prevent wind dispersal and contact with rainwater. Tanks used for this purpose shall be structurally sound and, if outdoors, shall have roofs or covers that prevent contact with wind and rain. Containers used for this purpose shall be kept closed except [~~when~~]if it is necessary to add or remove material, and shall be in sound condition. Containers that are stored outdoors shall be managed within storage areas that:

(I) have containment structures or systems sufficiently impervious to contain leaks, spills and accumulated precipitation; and

(II) provide for effective drainage and removal of leaks, spills and accumulated precipitation; and

(III) prevent run-on into the containment system.

(C) With each off-site shipment of excluded hazardous secondary materials, provide written notice to the receiving facility that the material is subject to the conditions of Subsection R315-261-4(a)(20).

(D) Maintain at the generator's or intermediate handlers's facility for no less than three years records of each shipment of excluded hazardous secondary materials. For each shipment these records shall at a minimum contain the[~~following~~] information required by Subsections R315-261-4(a)(20)(ii)(D)(I) through R315-261-4(a)(20(ii)(D)(III):

(I) name of the transporter and date of the shipment;

(II) name and address of the facility that received the excluded material, and documentation confirming receipt of the shipment; and

(III) type and quantity of excluded secondary material in each shipment.

(iii) Manufacturers of zinc fertilizers or zinc fertilizer ingredients made from excluded hazardous secondary materials shall:

(A) [~~S~~]store excluded hazardous secondary materials in accordance with the storage requirements for generators and intermediate handlers, as specified in Subsection R315-261-4(a)(20)(ii)(B)[~~-~~];

(B) [~~S~~]submit a one-time notification to the director that, at a minimum, specifies the name, address and EPA ID number of the manufacturing facility, and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions specified in Subsection R315-261-4(a)(20)[~~-~~];

(C) [~~M~~]maintain for a minimum of three years records of each shipment of excluded hazardous secondary materials received by the manufacturer, which shall at a minimum identify for each shipment the name and address of the generating facility, name of transporter and date the materials were received, the quantity received, and a brief description of the industrial process that generated the material[~~-~~]; and

(D) [~~S~~]submit to the director an annual report that identifies the total quantities of any excluded hazardous secondary materials that were used to manufacture zinc fertilizers or zinc fertilizer ingredients in the previous year, the name and address of each generating facility, and the industrial processes [~~from which~~]that they were generated from.

(iv) Nothing in Section R315-261-4 preempts, overrides or otherwise negates the provision in Section R315-262-11, which requires any person who generates a solid waste to determine if that waste is a hazardous waste.

(v) Interim status and permitted storage units that have been used to store only zinc-bearing hazardous wastes before the submission of the one-time notice described in Subsection R315-261-4(a)(20)(ii)(A), and that afterward will be used only to store hazardous secondary materials excluded under Subsection R315-261-4(a)(20), are not subject to the closure requirements of Rules R315-264 and R315-265.

(21) Zinc fertilizers made from hazardous wastes, or hazardous secondary materials that are excluded under Subsection R315-261-4(a)(20), provided:

(i) The fertilizers meet the [~~following~~]contaminant limits specified in the Table:

(A) For metal contaminants:

Table	
Constituent	Maximum Allowable Total Concentration in Fertilizer, per Unit (1%) of Zinc (ppm)
Arsenic	0.3
Cadmium	1.4
Chromium	0.6
Lead	2.8
Mercury	0.3

[~~TABLE~~

~~Constituent Maximum Allowable Total Concentration in Fertilizer, per Unit (1%) of Zinc (ppm)~~

~~Arsenic 0.3~~
~~Cadmium 1.4~~
~~Chromium 0.6~~
~~Lead 2.8~~
~~Mercury 0.3~~
]

(B) For dioxin contaminants the fertilizer shall contain no more than eight [~~(8)~~]parts per trillion of dioxin, measured as toxic equivalent (TEQ).

(ii) The manufacturer performs sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for metals no less than [~~every~~]each six month[~~s~~] period, and for dioxins no less than [~~every~~]each [~~twelve~~]12 month[~~s~~] period. Testing shall also be performed if changes occur to manufacturing processes or ingredients that could significantly affect the amounts of contaminants in the fertilizer product. The manufacturer may use any reliable analytical method to demonstrate that no constituent of concern is present in the product at concentrations above the applicable limits. It is the responsibility of the manufacturer to ensure that the sampling and analysis are unbiased, precise, and representative of the product[~~(~~]s[~~)~~] introduced into commerce.

(iii) The manufacturer maintains for no less than three years records of each sampling and analyses performed for purposes of determining compliance with the requirements of Subsection R315-261-4(a)(21)(ii). These records shall at a minimum include:

(A) the dates and times product samples were taken, and the dates the samples were analyzed;

(B) the names and qualifications of the person[~~, or persons~~] taking the samples;

(C) a description of the methods and equipment used to take the samples;

(D) the name and address of the laboratory facility [~~at which~~]where analyses of the samples were performed;

(E) a description of the analytical methods used, including any cleanup and sample preparation methods; and

(F) any laboratory analytical results used to determine compliance with the contaminant limits specified in this Subsection R315-261-4(a)(21).

(22) Used cathode ray tubes (CRTs).

(i) Used, intact CRTs as defined in Section R315-260-10 are not solid wastes within the United States unless they are disposed, or unless they are speculatively accumulated as defined in Subsection R315-261-1(c)(8) by CRT collectors or glass processors.

(ii) Used, intact CRTs as defined in Section R315-260-10 are not solid wastes if exported for recycling provided they meet the requirements of Section R315-261-40.

(iii) Used, broken CRTs as defined in Section R315-260-10 are not solid wastes provided they meet the requirements of Section R315-261-39.

(iv) Glass removed from CRTs is not a solid waste provided it meets the requirements of Subsection R315-261-39(c).

(23) Hazardous secondary material generated and legitimately reclaimed within the United States or its territories and under the control of the generator, provided the material complies with Subsections R315-261-4(a)(23)(i) and R315-261-4(a)(23)(ii):

(i)(A) the hazardous secondary material is generated and reclaimed at the generating facility, for purposes of this definition, generating facility means any contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator; or

(B) the hazardous secondary material is generated and reclaimed at different facilities, if the reclaiming facility is controlled by the generator or if both the generating facility and the reclaiming facility are controlled by a person as defined in Section R315-260-10, and if the generator provides one of the following certifications: "[~~o~~]On behalf of (insert generator facility name), I certify that this facility will send the indicated hazardous secondary material to (insert reclaimer facility name), which is controlled by (insert generator facility name) and that (insert name of either facility) has acknowledged full responsibility for the safe management of the hazardous secondary material," or "[~~o~~]On

behalf of (insert generator facility name), I certify that this facility will send the indicated hazardous secondary material to (insert reclaimer facility name), that both facilities are under common control, and that (insert name of either facility) has acknowledged full responsibility for the safe management of the hazardous secondary material." For purposes of this paragraph, "control" means the power to direct the policies of the facility, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate facilities on behalf of a different person as defined in Section R315-260-10 [~~shall~~]may not be [~~deemed~~]considered to "control" these facilities. The generating and receiving facilities shall both maintain at their facilities for no less than three years records of hazardous secondary materials sent or received under this exclusion. In both cases, the records shall contain the name of the transporter, the date of the shipment, and the type and quantity of the hazardous secondary material shipped or received under the exclusion. These requirements may be satisfied by routine business records such as financial records, bills of lading, copies of U.S. Department of Transportation (DOT) shipping papers, or electronic confirmations; or

(C) the hazardous secondary material is generated pursuant to a written contract between a tolling contractor and a toll manufacturer and is reclaimed by the tolling contractor, if the tolling contractor certifies the following: "On behalf of (insert tolling contractor name), I certify that (insert tolling contractor name) has a written contract with (insert toll manufacturer name) to manufacture (insert name of product or intermediate) which is made from specified unused materials, and that (insert tolling contractor name) will reclaim the hazardous secondary materials generated during this manufacture. On behalf of (insert tolling contractor name), I also certify that (insert tolling contractor name) [~~retains~~]keeps ownership of, and responsibility for, the hazardous secondary materials that are generated during [~~the course of~~]the manufacture, including any releases of hazardous secondary materials that occur during the manufacturing process". The tolling contractor shall maintain at its facility for no less than three years records of hazardous secondary materials received pursuant to its written contract with the tolling manufacturer, and the tolling manufacturer shall maintain at its facility for no less than three years records of hazardous secondary materials shipped pursuant to its written contract with the tolling contractor. In both cases, the records shall contain the name of the transporter, the date of the shipment, and the type and quantity of the hazardous secondary material shipped or received pursuant to the written contract. These requirements may be satisfied by routine business records such as financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations. For purposes of Subsection R315-261-4(a)(23)(i)(C), tolling contractor means a person who arranges for the production of a product or intermediate made from specified unused materials through a written contract with a toll manufacturer. Toll manufacturer means a person who produces a product or intermediate made from specified unused materials pursuant to a written contract with a tolling contractor.

(ii)(A) The hazardous secondary material is contained as defined in Section R315-260-10. A hazardous secondary material released to the environment is discarded and a solid waste unless it is immediately recovered for[~~-the purpose of~~] reclamation. Hazardous secondary material managed in a unit with leaks or other continuing or intermittent unpermitted releases is discarded and a solid waste.

(B) The hazardous secondary material is not speculatively accumulated, as defined in Subsection R315-261-1(c)(8).

(C) Notice is provided as required by Section R315-260-42.

(D) The material is not otherwise subject to material-specific management conditions under Subsection R315-261-4(a) if reclaimed, and it is not a spent lead-acid battery, see Sections R315-266-80 and R315-273-2.

(E) Persons performing the recycling of hazardous secondary materials under this exclusion shall maintain documentation of their legitimacy determination on-site. Documentation shall be a written description of how the recycling meets the three factors in Subsection R315-260-43(a) and how the factor in Subsection R315-260-43(b) was considered. Documentation shall be maintained for three years after the recycling operation has [~~ceased~~]stopped.

(F) The emergency preparedness and response requirements found in Sections R315-261-400, R315-261-410, R315-261-411, and R315-261-420 are met.

(24) Hazardous secondary material that is generated and then transferred to another person for[~~-the purpose of~~] reclamation is not a solid waste, provided:

(i) the material is not speculatively accumulated, as defined in Subsection R315-261-1(c)(8);

(ii) the material is not handled by any person or facility other than the hazardous secondary material generator, the transporter, an intermediate facility or a reclaimer, and, while in transport, is not stored for more than 10 days at a transfer facility, as defined in Section R315-260-10, and is packaged according to applicable Department of Transportation regulations at 49 CFR parts 173, 178, and 179 while in transport;

(iii) the material is not otherwise subject to material-specific management conditions under Subsection R315-261-4(a) if reclaimed, and it is not a spent lead-acid battery, see Sections R315-266-80 and R315-273-2;

(iv) the reclamation of the material is legitimate, as specified under Section R315-260-43; and

(v) the hazardous secondary material generator satisfies the [~~following~~]conditions in Subsections R315-261-4(a)(24)(v)(A) through R315-261-4(a)(24)(v)(F):

(A) The material shall be contained as defined in Section R315-260-10. A hazardous secondary material released to the environment is discarded and a solid waste unless it is immediately recovered for [~~the purpose of~~]recycling. Hazardous secondary material managed in a unit with leaks or other continuing releases is discarded and a solid waste.

(B) Before arranging for transport of hazardous secondary materials to a reclamation facility, or facilities, where the management of the hazardous secondary materials is not addressed under a hazardous waste part B permit or interim status standards, the hazardous secondary material generator shall make reasonable efforts to ensure that each reclaimer intends to properly and legitimately reclaim the hazardous secondary material and not discard it, and that each reclaimer will manage the hazardous secondary material in a manner that is protective of human health and the environment. If the hazardous secondary material will be passing through an intermediate facility where the management of the hazardous secondary materials is not addressed under a hazardous waste part B permit or interim status standards, the hazardous secondary material generator shall make contractual arrangements with the intermediate facility to ensure that the hazardous secondary material is sent to the reclamation facility identified by the hazardous secondary material generator, and the hazardous secondary material generator shall perform reasonable efforts to ensure that the intermediate facility will manage the hazardous secondary material in a manner that is protective of human health and the environment. Reasonable efforts shall be repeated at a minimum of [~~every~~]each three year[~~s~~] period for the hazardous secondary material generator to claim the exclusion and to send the hazardous secondary materials to each reclaimer and any

intermediate facility. In making these reasonable efforts, the generator may use any credible evidence available, including information gathered by the hazardous secondary material generator, provided by the reclaimer or either the intermediate facility, a third party, or both. The hazardous secondary material generator shall affirmatively answer the [~~following~~]questions in Subsections R315-261-4(a)(24)(v)(B)(I) through R315-261-4(a)(24)(v)(B)(V) for each reclamation facility and any intermediate facility:

(I) Does the available information [~~indicate~~]show that the reclamation process is legitimate pursuant to Section R315-260-43? In answering this question, the hazardous secondary material generator can rely on their existing knowledge of the physical and chemical properties of the hazardous secondary material, as well as information from other sources including the reclamation facility and audit reports about the reclamation process.

(II) Does the publicly available information [~~indicate~~]show that the reclamation facility and any intermediate facility that is used by the hazardous secondary material generator notified the appropriate authorities of hazardous secondary materials reclamation activities pursuant to Section R315-260-42 and have they notified the appropriate authorities that the financial assurance condition is satisfied per Subsection R315-261-4(a)(24)(vi)(F)? In answering these questions, the hazardous secondary material generator can rely on the available information documenting the reclamation facility's and any intermediate facility's compliance with the notification requirements per Section R315-260-42, including the requirement in Subsection R315-260-42(a)(5) to notify the director whether the reclaimer or intermediate facility has financial assurance.

(III) Does publicly available information [~~indicate~~]show that the reclamation facility or any intermediate facility that is used by the hazardous secondary material generator has not had any formal enforcement actions taken against the facility in the previous three years for violations of [~~Sections~~]Rules R315-260 through R315-268, R315-270, and R315-273 and has not been classified as a significant non-complier with [~~Sections~~]Rules R315-260 through R315-268, R315-270, and R315-273? In answering this question, the hazardous secondary material generator can rely on the publicly available information from EPA or the state. If the reclamation facility or any intermediate facility that is used by the hazardous secondary material generator has had a formal enforcement action taken against the facility in the previous three years for violations of [~~Sections~~]Rules R315-260 through R315-268, R315-270, and R315-273 and has been classified as a significant non-complier with [~~Sections~~]Rules R315-260 through R315-268, R315-270, and R315-273, does the hazardous secondary material generator have credible evidence that the facilities will manage the hazardous secondary materials properly? In answering this question, the hazardous secondary material generator can [~~obtain~~]get additional information from EPA, the state, or the facility itself that the facility has addressed the violations, taken remedial steps to address the violations and prevent future violations, or that the violations are not relevant to the proper management of the hazardous secondary materials.

(IV) Does the available information [~~indicate~~]show that the reclamation facility and any intermediate facility that is used by the hazardous secondary material generator have the equipment and trained personnel to safely recycle the hazardous secondary material? In answering this question, the generator may rely on a description by the reclamation facility or by an independent third [~~party~~]person of the equipment and trained personnel to be used to recycle the generator's hazardous secondary material.

(V) If residuals are generated from the reclamation of the excluded hazardous secondary materials, does the reclamation facility have the permits required, if any, to manage the residuals? If not, does the reclamation facility have a contract with an appropriately permitted facility to dispose of the residuals? If not, does the hazardous secondary material generator have credible evidence that the residuals will be managed in a manner that is protective of human health and the environment? In answering these questions, the hazardous secondary material generator can rely on publicly available information from EPA or the state, or information provided by the facility itself.

(C) The hazardous secondary material generator shall maintain for a minimum of three years documentation and certification that reasonable efforts were made for each reclamation facility and, if applicable, intermediate facility where the management of the hazardous secondary materials is not addressed under a hazardous waste part B permit or interim status standards before transferring hazardous secondary material. Documentation and certification shall be made available upon request by the director within 72 hours, or within a longer period as specified by the director. The certification statement shall:

(I) [~~I~~]include the printed name and official title of an authorized representative of the hazardous secondary material generator company, the authorized representative's signature, and the date signed[~~.~~]; and

(II) [~~I~~]incorporate the following language: "I hereby certify in good faith and to the best of my knowledge that, before arranging for transport of excluded hazardous secondary materials to (insert name(s) of reclamation facility and any intermediate facility), reasonable efforts were made in accordance with Subsection R315-261-4(a)(24)(v)(B) to ensure that the hazardous secondary materials would be recycled legitimately, and otherwise managed in a manner that is protective of human health and the environment, and that such efforts were based on current and accurate information."

(D) The hazardous secondary material generator shall maintain at the generating facility for no less than three years records of each off-site shipment of hazardous secondary materials. For each shipment, these records shall, at a minimum, contain the [~~following~~]information listed in Subsections R315-261-4(a)(24)(v)(D)(I) through R315-261-4(a)(24)(v)(D)(III):

(I) name of the transporter and date of the shipment;

(II) name and address of each reclaimer and, if applicable, the name and address of each intermediate facility [~~to which~~]that the hazardous secondary material was sent to; and

(III) the type and quantity of hazardous secondary material in the shipment.

(E) The hazardous secondary material generator shall maintain at the generating facility for no less than three years confirmations of receipt from each reclaimer and, if applicable, each intermediate facility for each off-site shipment of hazardous secondary materials. Confirmations of receipt shall include the name and address of the reclaimer, or intermediate facility, the type and quantity of the hazardous secondary materials received and the date [~~which~~]that the hazardous secondary materials were received. This requirement may be satisfied by routine business records such as financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations of receipt.

(F) The hazardous secondary material generator shall comply with the emergency preparedness and response conditions in Sections R315-261-400, R315-261-410, R315-261-411, and R315-261-420.

(vi) Reclaimers of hazardous secondary material excluded from regulation under this exclusion and intermediate facilities as defined in Section R315-260-10 satisfy the [~~following~~]conditions in Subsections R315-261-4(a)(24)(vi)(A) through R315-261-4(a)(24)(vi)(F):

(A) The reclaimer and intermediate facility shall maintain at its facility for no less than three years records of each shipment of hazardous secondary materials that were received at the facility and, if applicable, for each shipment of hazardous secondary materials that were received and subsequently sent off-site from the facility for further reclamation. For each shipment, these records shall at a minimum contain the [~~following~~]information required by Subsections R315-261-4(a)(24)(vi)(A)(I) through R315-261-4(a)(24)(vi)(A)(IV):

(I) name of the transporter and date of the shipment;

(II) name and address of the hazardous secondary material generator and, if applicable, the name and address of the reclaimer or intermediate facility [~~which~~]that the hazardous secondary materials were received from;

(III) the type and quantity of hazardous secondary material in the shipment; and

(IV) for hazardous secondary materials that, after being received by the reclaimer or intermediate facility, were subsequently transferred off-site for further reclamation, the name and address of the, subsequent, reclaimer and, if applicable, the name and address of each intermediate facility [~~to which~~]that the hazardous secondary material was sent to.

(B) The intermediate facility shall send the hazardous secondary material to the reclaimer, or reclaimers designated by the hazardous secondary materials generator.

(C) The reclaimer and intermediate facility shall send to the hazardous secondary material generator confirmations of receipt for each off-site shipment of hazardous secondary materials. Confirmations of receipt shall include the name and address of the reclaimer, or intermediate facility, the type and quantity of the hazardous secondary materials received and the date [~~which~~]that the hazardous secondary materials were received. This requirement may be satisfied by routine business records such as financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations of receipt.

(D) The reclaimer and intermediate facility shall manage the hazardous secondary material in a manner that is at least as protective as that [~~employed~~]used for analogous raw material and shall be contained. An "analogous raw material" is a raw material [~~for which~~]that a hazardous secondary material is a substitute for and serves the function and has similar physical and chemical properties as the hazardous secondary material.

(E) Any residuals that are generated from reclamation processes shall be managed in a manner that is protective of human health and the environment. If any residuals exhibit a hazardous characteristic according to Sections R315-261-20 through R315-261-24, or if they themselves are specifically listed in Sections R315-261-30 through R315-261-35, these residuals are hazardous wastes and shall be managed in accordance with the applicable requirements of Rules R315-260 through R315-266, R315-268, and R315-270.

(F) The reclaimer and intermediate facility have financial assurance as required under Sections R315-261-140 through R315-261-151[~~,~~].

(vii) In addition, each person claiming the exclusion under Subsection R315-261-4(a)(24) provide notification as required under Section R315-260-42.

(25) Hazardous secondary material that is exported from the United States and reclaimed at a reclamation facility located in a foreign country is not a solid waste, provided the hazardous secondary material generator complies with the applicable requirements of Subsections R315-261-4(a)(24)(i)[~~-~~] through R315-261-4(a)(24)(v), excepting Subsection R315-261-4(a)(24)(v)(B)(2) for foreign reclaimers and foreign intermediate facilities, and that the hazardous secondary material generator also complies with the [~~following~~]requirements in Subsections R315-261-4(a)(25)(i) through R315-261-4(a)(25)(xii):

(i) Notify EPA of an intended export before the hazardous secondary material is scheduled to leave the United States. A complete notification shall be submitted at least 60[~~sixty~~] days before the initial shipment is intended to be shipped off-site. This notification may cover export activities extending over a [~~twelve~~]12 month or lesser period. The notification shall be in writing, signed by the hazardous secondary material generator, and include the [~~following~~]information required by Subsections R315-261-4(a)(25)(i)(A) through R315-261-4(a)(25)(i)(I):

(A) name, mailing address, telephone number and EPA ID number, if applicable, of the hazardous secondary material generator;

(B) a description of the hazardous secondary material and the EPA hazardous waste number that would apply if the hazardous secondary material was managed as hazardous waste and the U.S. DOT proper shipping name, hazard class and ID number, UN/NA, for each hazardous secondary material as identified in 49 CFR parts 171 through 177;

(C) the estimated frequency or rate [~~at which~~]that the hazardous secondary material is to be exported and the period [~~over which~~]that the hazardous secondary material is to be exported;

(D) the estimated total quantity of hazardous secondary material;

(E) each point of entry to and departure from each foreign country [~~through which~~]that the hazardous secondary material will pass through;

(F) a description of the means [~~by which~~]that will be used to transport each shipment of the hazardous secondary material[~~ will be transported~~], for example mode of transportation vehicle including air, highway, rail and water, and types of containers including drums, boxes and tanks;

(G) a description of the manner [~~in which~~]that will be used to reclaim the hazardous secondary material[~~ will be reclaimed~~] in the country of import;

(H) the name and address of the reclaimer, any intermediate facility and any alternate reclaimer and intermediate facilities; and

(I) the name of any countries of transit [~~through which~~]that the hazardous secondary material will be sent through and a description of the approximate length of time it will remain in these countries and the nature of its handling while there, for purposes of this section, the terms "EPA Acknowledgement of Consent", "country of import" and "country of transit" are used as defined in Section R315-262-81 with the exception that the terms in Section R315-261-4 refer to hazardous secondary materials, rather than hazardous waste.

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

(iii) Except for changes to the telephone number in Subsection R315-261-4(a)(25)(i)(A) and decreases in the quantity of hazardous secondary material indicated pursuant to Subsection R315-261-4(a)(25)(i)(D), if the conditions specified on the original notification change, including any exceedance of the estimate of the quantity of hazardous secondary material specified in the original notification, the hazardous secondary material generator shall provide EPA with a written renotification of the change. The shipment cannot take place until consent of the country of import to the changes, except for changes to Subsection R315-261-4(a)(25)(i)(I) and in the ports of entry to and departure from countries of transit pursuant to Subsection R315-261-4(a)(25)(i)(E), has been [~~obtained~~]received and the hazardous secondary material generator receives from EPA an EPA Acknowledgment of Consent reflecting the country of import's consent to the changes.

(iv) Upon request by EPA, the hazardous secondary material generator shall furnish to EPA any additional information [~~which~~]that a country of import requests to respond to a notification.

(v) EPA will provide a complete notification to the country of import and any countries of transit. A notification is complete [~~when~~]if EPA receives a notification [~~which~~]that EPA determines satisfies the requirements of Subsection R315-261-4(a)(25)(i). If a claim of confidentiality is asserted with respect to any notification information required by Subsection R315-261-4(a)(25)(i), EPA may find the notification not complete until the claim is resolved in accordance with 40 CFR 260.2.

(vi) The export of hazardous secondary material under Subsection R315-261-4(a)(25) is prohibited unless the hazardous secondary material generator receives from EPA an EPA Acknowledgment of Consent documenting the consent of the country of import to the receipt of the hazardous secondary material. If[~~country of import consents to the intended export. If the country of import consents in writing to the receipt of the hazardous secondary material, EPA will send an EPA Acknowledgment of Consent to the hazardous secondary material generator. If~~] the country of import objects to receipt of the hazardous secondary material or withdraws [~~a prior~~]an earlier consent, EPA will notify the hazardous secondary material generator in writing. EPA will also notify the hazardous secondary material generator of any responses from countries of transit.

(vii) Before each shipment, the hazardous secondary material generator or a U.S. authorized agent shall:[~~For exports to OECD Member countries, the receiving country may respond to the notification using tacit consent. If no objection has been lodged by any country of import or countries of transit to a notification provided pursuant to Subsection R315-261-4(a)(25)(i) within thirty days after the date of issuance of the acknowledgement of receipt of notification by the competent authority of the country of import, the transboundary movement may commence. In these cases, EPA will send an EPA Acknowledgment of Consent to inform the hazardous secondary material generator that the country of import and any relevant countries of transit have not objected to the shipment, and are thus presumed to have consented tacitly. Tacit consent expires one calendar year after the close of the thirty-day period; renotification and renewal of each consent is required for exports after that date.~~]

(A) submit Electronic Export Information (EEI) for each shipment to the Automated Export System (AES) or its successor systems, under the International Trade Data System (ITDS) platform, in accordance with 15 CFR 30.4(b); and

(B) include the items in Subsections R315-261-4(a)(25)(vii)(B)(1) through R315-261-4(a)(25)(vii)(B)(7) in the EEI, along with the other information required under 15 CFR 30.6:

(1) EPA license code;

(2) commodity classification code per 15 CFR 30.6(a)(12);

(3) EPA consent number;

(4) country of ultimate destination per 15 CFR 30.6(a)(5);

(5) date of export per 15 CFR 30.6(a)(2); and

(6) quantity of waste in shipment and units for reported quantity, if required reporting units established by values for the reported commodity classification number are in units of weight or volume per 15 CFR 30.6(a)(15); or

(7) EPA net quantity reported in units of kilograms, if required reporting units established by value for the reported commodity classification number are not in units of weight or volume.

(viii) A copy of the EPA Acknowledgment of Consent shall accompany the shipment. The shipment shall conform to the terms of the EPA Acknowledgment of Consent.

(ix) If a shipment cannot be delivered for any reason to the reclaimer, intermediate facility or the alternate reclaimer or alternate intermediate facility, the hazardous secondary material generator shall re-notify EPA of a change in the conditions of the original notification to allow shipment to a new reclaimer in accordance with Subsection R315-261-4(a)(25)(iii) and get[~~obtain~~] another EPA Acknowledgment of Consent.

(x) Hazardous secondary material generators shall keep a copy of each notification of intent to export and each EPA Acknowledgment of Consent for a period of three years following receipt of the EPA Acknowledgment of Consent. They may satisfy this recordkeeping requirement by [~~retaining~~]keeping electronically submitted notifications or electronically generated Acknowledgements in their account on EPA's Waste Import Export Tracking System, WIETS, or its successor system, provided copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No hazardous secondary material generator may be held liable for the inability to produce a notification or Acknowledgement for inspection under Subsection R315-261-4(a)(25) if they can demonstrate that the inability to produce copies is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System, WIETS, or its successor system [~~for which~~]that the hazardous secondary material generator bears no responsibility.

(xi) Hazardous secondary material generators shall file with the Administrator no later than March 1 of each year, a report summarizing the types, quantities, frequency and ultimate destination of each hazardous secondary material exported during the previous calendar year. Annual reports shall be submitted electronically using EPA's Waste Import Export Tracking System, WIETS, or its successor system. These reports shall include the [~~following~~]information listed in Subsections R315-261-4(a)(25)(xi)(A) through R315-261-4(a)(25)(xi)(E):

(A) name, mailing and site address, and EPA ID number, if applicable, of the hazardous secondary material generator;

(B) the calendar year covered by the report;

(C) the name and site address of each reclaimer and intermediate facility;

(D) by reclaimer and intermediate facility, for each hazardous secondary material exported, a description of the hazardous secondary material and the EPA hazardous waste number that would apply if the hazardous secondary material was managed as hazardous waste, the DOT hazard class, the name and U.S. EPA ID number, [~~where~~]if applicable, for each transporter used, the consent numbers that the hazardous secondary material was shipped under and for each consent number, the total amount of hazardous secondary material shipped and the number of shipments exported during the calendar year covered by the report;[~~the total amount of hazardous secondary material shipped and the number of shipments pursuant to each notification;~~] and

(E) a certification signed by the hazardous secondary material generator [~~which~~]that states: "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and each attached document, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment."

(xii) Each person claiming an exclusion under Subsection R315-261-4(a)(25) shall provide notification as required by Section R315-260-42.

(26) Solvent-contaminated wipes that are sent for cleaning and reuse are not solid wastes from the point of generation, provided:

(i) [~~T~~]the solvent-contaminated wipes, [~~when~~]if accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes." The containers shall be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed if there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. [~~When~~]If the container is full, or [~~when~~]if the solvent-contaminated wipes are no longer being accumulated, or [~~when~~]if the container is being transported, the container shall be sealed with the lids properly and securely affixed to the container and any openings tightly bound or closed sufficiently to prevent leaks and emissions;

(ii) [~~T~~]the solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container before being sent for cleaning;

(iii) [~~A~~]at the point of being sent for cleaning on-site or at the point of being transported off-site for cleaning, the solvent-contaminated wipes shall contain no free liquids as defined in Section R315-260-10;

(iv) [~~F~~]free liquids removed from the solvent-contaminated wipes or from the container holding the wipes shall be managed according to the applicable rules found in Rules R315-260 through R315-266, R315-268, R315-270, and R315-273;

(v) [~~G~~]generators shall maintain at their site the [~~following~~]documentation listed in Subsections R315-261-4(a)(26)(iv)(A) through R315-261-4(a)(26)(iv)(C):

(A) name and address of the laundry or dry cleaner that is receiving the solvent-contaminated wipes;

(B) documentation that the 180-day accumulation time limit in Subsection R315-261-4(a)(26)(ii) is being met; and

(C) description of the process the generator is using to ensure the solvent-contaminated wipes contain no free liquids at the point of being laundered or dry cleaned on-site or at the point of being transported off-site for laundering or dry cleaning; and

(vi) [~~T~~]the solvent-contaminated wipes are sent to a laundry or dry cleaner whose discharge, if any, is regulated under sections 301 and 402 or section 307 of the Clean Water Act.

(27) Hazardous secondary material that is generated and then transferred to another person for[~~-the purpose of~~] remanufacturing is not a solid waste, provided:

(i) The hazardous secondary material consists of one or more of the following spent solvents: Toluene, xylenes, ethylbenzene, 1,2,4-trimethylbenzene, chlorobenzene, n-hexane, cyclohexane, methyl tert-butyl ether, acetonitrile, chloroform, chloromethane, dichloromethane, methyl isobutyl ketone, N,N-dimethylformamide, tetrahydrofuran, n-butyl alcohol, ethanol, or methanol.

(ii) The hazardous secondary material originated from using one or more of the solvents listed in Subsection R315-261-4(a)(27)(i) in a commercial grade for reacting, extracting, purifying, or blending chemicals, or for rinsing out the process lines associated with these functions; in the pharmaceutical manufacturing, NAICS 325412; basic organic chemical manufacturing, NAICS 325199; plastics and resins manufacturing, NAICS 325211; and the paints and coatings manufacturing sectors, NAICS 325510.

(iii) The hazardous secondary material generator sends the hazardous secondary material spent solvents listed in Subsection R315-261-4(a)(27)(i) to a remanufacturer in the pharmaceutical manufacturing, NAICS 325412; basic organic chemical manufacturing, NAICS 325199; plastics and resins manufacturing, NAICS 325211; or the paints and coatings manufacturing sectors, NAICS 325510.

(iv) After remanufacturing one or more of the solvents listed in Subsection R315-261-4(a)(27)(i), the use of the remanufactured solvent shall be limited to reacting, extracting, purifying, or blending chemicals, or for rinsing out the process lines associated with these functions, in the pharmaceutical manufacturing, NAICS 325412; basic organic chemical manufacturing, NAICS 325199; plastics and resins manufacturing, NAICS 325211; and the paints and coatings manufacturing sectors, NAICS 325510; or to using them as ingredients in a product. These allowed uses correspond to chemical functional uses enumerated under the Chemical Data Reporting Rule of the Toxic Substances Control Act, 40 CFR parts 704, 710-711, including Industrial Function Codes U015, solvents consumed in a reaction to produce other chemicals, and U030, solvents become part of the mixture.

(v) After remanufacturing one or more of the solvents listed in Subsection R315-261-4(a)(27)(i), the use of the remanufactured solvent does not involve cleaning or degreasing oil, grease, or similar material from textiles, glassware, metal surfaces, or other articles. These disallowed continuing uses correspond to chemical functional uses in Industrial Function Code U029 under the Chemical Data Reporting Rule of the Toxics Substances Control Act.

(vi) Both the hazardous secondary material generator and the remanufacturer shall:

(A) notify the director and update the notification [~~every~~]each two year[~~s~~] period per Section R315-260-42;

(B) develop and maintain an up-to-date remanufacturing plan [~~which~~]that identifies:

(I) the name, address and EPA ID number of the generators and the remanufacturers;

(II) the types and estimated annual volumes of spent solvents to be remanufactured;

(III) the processes and industry sectors that generate the spent solvents;

(IV) the specific uses and industry sectors for the remanufactured solvents; and

(V) a certification from the remanufacturer stating, "[~~o~~]On behalf of (insert remanufacturer facility name), I certify that this facility is a remanufacturer under pharmaceutical manufacturing, NAICS 325412; basic organic chemical manufacturing, NAICS 325199; plastics and resins manufacturing, NAICS 325211; and/or the paints and coatings manufacturing sectors, NAICS 325510; and will accept the spent solvent(s) for the sole purpose of remanufacturing into commercial-grade solvent(s) that will be used for reacting, extracting, purifying, or blending chemicals, or for rinsing out the process lines associated with these functions, or for use as product ingredient(s). I also certify that the remanufacturing equipment, vents, and tanks are equipped with and are operating air emission controls in compliance with the appropriate Clean Air Act regulations under 40 CFR part 60, part 61 or part 63, or, absent such Clean Air Act standards for the particular operation or piece of equipment covered by the remanufacturing exclusion, are in compliance with the appropriate standards in Sections R315-261-1030 through R315-261-1035, R315-261-1050 through R315-261-1064 and R315-261-1080 through R315-261-1089";

(C) maintain records of shipments and confirmations of receipts for a period of three years from the dates of the shipments;

(D) before remanufacturing, store the hazardous spent solvents in tanks or containers that meet technical standards found in Sections R315-261-17 through R315-261-179 and R315-261-190 through R315-261-200, with the tanks and containers being labeled or otherwise having an immediately available record of the material being stored;

(E) during remanufacturing, and during storage of the hazardous secondary materials before remanufacturing, the remanufacturer certifies that the remanufacturing equipment, vents, and tanks are equipped with and are operating air emission controls in compliance with the appropriate Clean Air Act regulations under 40 CFR part 60, part 61 or part 63; or, absent any Clean Air Act standards for the particular operation or piece of equipment covered by the remanufacturing exclusion, are in compliance with the appropriate standards in Sections R315-261-1030 through R315-261-1035, R315-261-1050 through R315-261-1064 and R315-261-1080 through R315-261-1089; and

(F) meet the requirements prohibiting speculative accumulation per Subsection R315-261-1(c)(8).

(b) Solid wastes [~~which~~]that are not hazardous wastes. The [~~following~~]solid wastes listed in Subsections R315-261-4(b)(1) through R315-261-4(b)(18) are not hazardous wastes:

(1) Household waste, including household waste that has been collected, transported, stored, treated, disposed, recovered such as refuse-derived fuel, or reused. "Household waste" means any material, including garbage, trash and sanitary wastes in septic tanks, derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas. A resource recovery facility managing municipal solid waste [~~shall~~]may not be [~~deemed~~]considered to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation under this subtitle, if the facility:

(i) [~~R~~]receives and burns only:

(A) household waste, from single and multiple dwellings, hotels, motels, and other residential sources; and

(B) solid waste from commercial or industrial sources that does not contain hazardous waste.

(ii) The facility does not accept hazardous wastes and the owner or operator of the facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in the facility.

(2) Solid wastes generated by any of the [~~following~~]methods listed in Subsections R315-261-4(b)(2)(i) and R315-261-4(b)(2)(ii) and [~~which~~]that are returned to the soils as fertilizers:

(i) The growing and harvesting of agricultural crops.

(ii) The raising of animals, including animal manures.

(3) Mining overburden returned to the mine site.

(4)(i) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels, except as provided by Section R315-266-112 for facilities that burn or process hazardous waste.

(ii) The [~~following~~]wastes listed in Subsections R315-261-4(b)(4)(ii)(A) through R315-261-4(b)(4)(ii)(H) and generated primarily from processes that support the combustion of coal or other fossil fuels that are co-disposed with the wastes in Subsection R315-261-4(b)(4)(i), except as provided by Section R315-266-112 for facilities that burn or process hazardous waste:

(A) Coal pile run-off. For purposes of Subsection R315-261-4(b)(4), coal pile run-off means any precipitation that drains off coal piles.

(B) Boiler cleaning solutions. For purposes of Subsection R315-261-4(b)(4), boiler cleaning solutions means water solutions and chemical solutions used to clean the fire-side and water-side of the boiler.

(C) Boiler blowdown. For purposes of Subsection R315-261-4(b)(4), boiler blowdown means water purged from boilers used to generate steam.

(D) Process water treatment and demineralizer regeneration wastes. For purposes of Subsection R315-261-4(b)(4), process water treatment and demineralizer regeneration wastes means sludges, rinses, and spent resins generated from processes to remove dissolved gases, suspended solids, and dissolved chemical salts from combustion system process water.

(E) Cooling tower blowdown. For purposes of Subsection R315-261-4(b)(4), cooling tower blowdown means water purged from a closed cycle cooling system. Closed cycle cooling systems include cooling towers, cooling ponds, or spray canals.

(F) Air heater and precipitator washes. For purposes of Subsection R315-261-4(b)(4), air heater and precipitator washes means wastes from cleaning air preheaters and electrostatic precipitators.

(G) Effluents from floor and yard drains and sumps. For purposes of Subsection R315-261-4(b)(4), effluents from floor and yard drains and sumps means wastewaters, such as wash water, collected by or from floor drains, equipment drains, and sumps located inside the power plant building; and wastewaters, such as rain runoff, collected by yard drains and sumps located outside the power plant building.

(H) Wastewater treatment sludges. For purposes of Subsection R315-261-4(b)(4), wastewater treatment sludges refers to sludges generated from the treatment of wastewaters specified in Subsections R315-261-4(b)(4)(ii)(A) through R315-251-4(b)(4)(ii)(F).

(5) Drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas or geothermal energy.

(6)(i) Wastes [~~which~~]that fail the test for the Toxicity Characteristic because chromium is present or are listed in Sections R315-261-30 through R315-261-35 due to the presence of chromium, [~~which~~]that do not fail the test for the Toxicity Characteristic for any other constituent or are not listed due to the presence of any other constituent, and [~~which~~]that do not fail the test for any other characteristic, if it is shown by a waste generator or by waste generators that:

(A) the chromium in the waste is exclusively, or nearly exclusively, trivalent chromium; and

(B) the waste is generated from an industrial process [~~which~~]that uses trivalent chromium exclusively, or nearly exclusively, and the process does not generate hexavalent chromium; and

(C) the waste is typically and [~~frequently~~]often managed in non-oxidizing environments.

(ii) Specific wastes [~~which~~]that meet the standard in Subsections R315-261-4(b)(6)(i)(A), R315-261-4(b)(6)(i)(B), and R315-261-4(b)(6)(i)(C), so long as they do not fail the test for the [~~t~~]Toxicity [~~e~~]Characteristic for any other constituent, and do not exhibit any other characteristic, are:

(A) Chrome, blue, trimmings generated by the following subcategories of the leather tanning and finishing industry; hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

(B) Chrome, blue, shavings generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

(C) Buffing dust generated by the following subcategories of the leather tanning and finishing industry; hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue.

(D) Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

(E) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

(F) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; and through-the-blue.

(G) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries.

(H) Wastewater treatment sludges from the production of TiO2 pigment using chromium-bearing ores by the chloride process.

(7) Solid waste from the extraction, beneficiation, and processing of ores and minerals, including coal, phosphate rock, and overburden from the mining of uranium ore, except as provided by Section R315-266-112 for facilities that burn or process hazardous waste.

(i) For purposes of Subsection R315-261-4(b)(7) beneficiation of ores and minerals is restricted to the following activities: crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briquetting; calcining to remove water, carbon dioxide, or both; roasting, autoclaving, chlorination, or both in preparation for leaching, except [~~when~~]if the roasting, or autoclaving, or chlorination or leaching, or any combination of these, sequence produces a final or intermediate product that does not undergo further beneficiation or processing; gravity concentration; magnetic separation; electrostatic separation; flotation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat, tank, and in situ leaching.

(ii) For the purposes of Subsection R315-261-4(b)(7), solid waste from the processing of ores and minerals includes only the [~~following~~]wastes listed in Subsections R315-261-4(b)(7)(ii)(A) through R315-261-4(b)(7)(ii)(T) as generated:

(A) slag from primary copper processing;

(B) slag from primary lead processing;

(C) red and brown muds from bauxite refining;

(D) phosphogypsum from phosphoric acid production;

(E) slag from elemental phosphorus production;

(F) gasifier ash from coal gasification;

(G) process wastewater from coal gasification;

(H) calcium sulfate wastewater treatment plant sludge from primary copper processing;

(I) slag tailings from primary copper processing;

(J) fluorogypsum from hydrofluoric acid production;

(K) process wastewater from hydrofluoric acid production;

(L) air pollution control dust or sludge from iron blast furnaces;

(M) iron blast furnace slag;

(N) treated residue from roasting or leaching of chrome ore;

(O) process wastewater from primary magnesium processing by the anhydrous process;

(P) process wastewater from phosphoric acid production;

(Q) basic oxygen furnace and open hearth furnace air pollution control dust or sludge from carbon steel production;

(R) basic oxygen furnace and open hearth furnace slag from carbon steel production;

(S) chloride process waste solids from titanium tetrachloride production; and

(T) slag from primary zinc processing.

(iii) A residue derived from co-processing mineral processing secondary materials with normal beneficiation raw materials or with normal mineral processing raw materials remains excluded under Subsection R315-261-4(b) if the owner or operator:

(A) processes at least 50% [~~percent~~]by weight normal beneficiation raw materials or normal mineral processing raw materials; and[~~,~~]

(B) legitimately reclaims the secondary mineral processing materials.

(8) Cement kiln dust waste, except as provided by Section R315-266-112 for facilities that burn or process hazardous waste.

(9) Solid waste [~~which~~]that consists of discarded arsenical-treated wood or wood products [~~which~~]that fails the test for the Toxicity Characteristic for Hazardous Waste Codes D004 through D017 and [~~which~~]that is not a hazardous waste for any other reason if the waste is generated by persons who utilize the arsenical-treated wood and wood products for these materials' intended end use.

(10) Petroleum-contaminated media and debris that fail the test for the Toxicity Characteristic of Section R315-261-24, Hazardous Waste Codes D018 through D043 only, and are subject to the corrective action rules [~~under~~]in 40 CFR 280 which are contained in Section R311-202-1[~~- which adopts 40 CFR 280 by reference~~.

(11) Injected groundwater that is hazardous only because it exhibits the Toxicity Characteristic, Hazardous Waste Codes D018 through D043 only, in Section R315-261-24 that is reinjected through an underground injection well pursuant to free phase hydrocarbon recovery operations undertaken at petroleum refineries, petroleum marketing terminals, petroleum bulk plants, petroleum pipelines, and petroleum transportation spill sites until January 25, 1993. This extension applies to recovery operations in existence, or [~~for which~~]that contracts have been issued for, on or before March 25, 1991. For groundwater returned through infiltration galleries from these operations at petroleum refineries, marketing terminals, and bulk plants, until October 2, 1991. New operations involving injection wells, beginning after March 25, 1991, will qualify for this compliance date extension, until January 25, 1993, only if:

(i) operations are performed pursuant to a written state agreement that includes a provision to assess the groundwater and the need for further remediation once the free phase recovery is [~~completed~~]finished; and

(ii) a copy of the written agreement has been submitted to: Waste Identification Branch (5304), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460 and the Division of Waste Management and Radiation Control, PO Box 144880, Salt Lake City, UT 84114-4880.

(12) Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use.

(13) Non-terne plated used oil filters that are not mixed with wastes listed in Sections R315-261-30 through R315-261-35 if these oil filters have been gravity hot-drained using one of the [~~following~~]methods listed in Subsections R315-261-4(b)(13)(i) through R315-261-4(b)(13)(iv):

(i) puncturing the filter anti-drain back valve or the filter dome end and hot-draining;

(ii) hot-draining and crushing;

(iii) dismantling and hot-draining; or

(iv) any other equivalent hot-draining method that will remove used oil.

(14) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.

(15) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed, provided:

(i) the solid wastes disposed would meet one or more of the listing descriptions for Hazardous Waste Codes K169, K170, K171, K172, K174, K175, K176, K177, K178 and K181 if these wastes had been generated after the effective date of the listing;

(ii) the solid wastes described in Subsection R315-261-4(b)(15)(i) were disposed before the effective date of the listing;

(iii) the leachate or gas condensate do not exhibit any characteristic of hazardous waste nor are derived from any other listed hazardous waste;

(iv) discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to regulation under sections 307(b) or 402 of the Clean Water Act; and

(v) as of February 13, 2001, leachate or gas condensate derived from K169-K172 is no longer exempt if it is stored or managed in a surface impoundment before discharge. As of November 21, 2003, leachate or gas condensate derived from K176, K177, and K178 is no longer exempt if it is stored or managed in a surface impoundment before discharge. After February 26, 2007, leachate or gas condensate derived from K181 will no longer be exempt if it is stored or managed in a surface impoundment before discharge. There is one exception: if the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation such as shutdown of wastewater treatment system, provided the impoundment has a double liner, and provided the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of Subsection R315-261-4(b)(15)(v) after the emergency ends.

(16) Reserved

(17) Reserved

(18) Solvent-contaminated wipes, except for wipes that are hazardous waste due to the presence of trichloroethylene, that are sent for disposal are not hazardous wastes from the point of generation provided:

(i) the solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes." The containers shall be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed if there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. [~~When~~]If the container is full, or [~~when~~]if the solvent-contaminated wipes are no longer being accumulated, or [~~when~~]if the container is being transported, the container shall be sealed with the lids properly and securely affixed to the container and any openings tightly bound or closed sufficiently to prevent leaks and emissions;

(ii) the solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container before being sent for disposal;

(iii) at the point of being transported for disposal, the solvent-contaminated wipes shall contain no free liquids as defined in Section R315-260-10;

(iv) free liquids removed from the solvent-contaminated wipes or from the container holding the wipes shall be managed according to the applicable rules found in Rules R315-260 through R315-266, R315-268, R315-270, and R315-273;

(v) Generators shall maintain at their site the [~~following~~]documentation listed in Subsections R315-261-4(b)(18)(v)(A) through R315-261-4(b)(18)(v)(C):

(A) name and address of the landfill or combustor that is receiving the solvent-contaminated wipes;

(B) documentation that the 180~~-~~-day accumulation time limit in Subsection R315-261-4(b)(18)(ii) is being met; and

(C) description of the process the generator is using to ensure solvent-contaminated wipes contain no free liquids at the point of being transported for disposal; and

(vi) [~~T~~]the solvent-contaminated wipes are sent for disposal:

(A) [~~T~~]to a solid waste landfill that:

(I) is regulated under Rules R315-301 through R315-320;

(II) is a Class I or V Landfill; and

(III) has a composite liner; or

(B) to a hazardous waste landfill regulated under Rules R315-260 through R315-266, R315-268, and R315-270; or

(C) to a municipal waste combustor or other combustion facility regulated under section 129 of the Clean Air Act or to a hazardous waste combustor, boiler, or industrial furnace regulated under Rule R315-264, Rule R315-265, or Sections R315-266-100 through R315-266-112.

(c) Hazardous wastes [~~which~~]that are exempted from certain rules. A hazardous waste [~~which~~]that is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated non-waste-treatment-manufacturing unit, is not subject to regulation under Rules R315-262 through R315-265, R315-268, R315-270, and R315-124 or to the notification requirements of section 3010 of RCRA until it exits the unit [~~in which~~]that it was generated in, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit [~~ceases to~~]stops being operated for manufacturing, or for storage or transportation of product or raw materials.

(d)(1) Samples. Except as provided in Subsections R315-261-4(d)(2) and R315-261-4(d)(4), a sample of solid waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of Rules R315-261 through R315-266, R315-268 or R315-270 or R315-124 or to the notification requirements of Section 3010 of RCRA, if:

(i) the sample is being transported to a laboratory for [~~the purpose of~~]testing; or

(ii) the sample is being transported back to the sample collector after testing; or

(iii) the sample is being stored by the sample collector before transport to a laboratory for testing; or

(iv) the sample is being stored in a laboratory before testing; or

(v) the sample is being stored in a laboratory after testing but before it is returned to the sample collector; or

(vi) the sample is being stored temporarily in the laboratory after testing for a specific purpose, for example, until conclusion of a court case or enforcement action [~~where~~]when further testing of the sample may be necessary.

(2) To qualify for the exemption in Subsections R315-261-4(d)(1)[-](i) and R315-261-4(d)(1)(ii), a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector shall:

(i) comply with [~~U.S. Department of Transportation (~~]DOT[~~)~~], U.S. Postal Service (USPS), or any other applicable shipping requirements; or

(ii) comply with the [~~following~~]requirements of Subsections R315-261-4(d)(2)(ii)(A) and R315-261-4(d)(2)(ii)(B) if the sample collector determines that DOT, USPS, or other shipping requirements do not apply to the shipment of the sample:

(A) Assure that the [~~following~~]information listed in Subsections R315-261-4(d)(2)(ii)(A)(I) through R315-261-4(d)(2)(ii)(A)(V) accompanies the sample:

(I) the sample collector's name, mailing address, and telephone number;

(II) the laboratory's name, mailing address, and telephone number;

(III) the quantity of the sample;

(IV) the date of shipment; and

(V) a description of the sample.

(B) Package the sample so that it does not leak, spill, or vaporize from its packaging.

(3) This exemption does not apply if the laboratory determines that the waste is hazardous but the laboratory is no longer meeting any of the conditions stated in Subsection R315-261-4(d)(1).

(4) To qualify for the exemption in Subsections R315-261-4(d)(1)(i) and R315-261-4(d)(1)(ii), the mass of a sample that will be exported to a foreign laboratory or that will be imported to a U.S. laboratory from a foreign source shall additionally not exceed 25 kg.

(e)(1) Treatability Study Samples. Except as provided in Subsections R315-261-4(e)(2) and R315-261-4(e)(4), persons who generate or collect samples for [~~the purpose of~~]conducting treatability studies as defined in Section R315-260-10, are not subject to any requirement of Rules R315-261 through R315-263 or to the notification requirements of Section 3010 of RCRA, nor are the samples included in the quantity determinations of Section R315-261-5 and Subsection R315-262-34(d) if:

(i) the sample is being collected and prepared for transportation by the generator or sample collector; or

(ii) the sample is being accumulated or stored by the generator or sample collector before transportation to a laboratory or testing facility; or

(iii) the sample is being transported to the laboratory or testing facility for [~~the purpose of~~]conducting a treatability study.

(2) The exemption in Subsection R315-261-4(e)(1) applies to samples of hazardous waste being collected and shipped for [~~the purpose of~~]conducting treatability studies provided:

(i) the generator or sample collector uses, in [~~"~~]treatability studies[~~"~~], no more than 10,000 kg of media contaminated with non-acute hazardous waste, 1000 kg of non-acute hazardous waste other than contaminated media, 1 kg of acute hazardous waste, 2500 kg of media contaminated with acute hazardous waste for each process being evaluated for each generated waste stream; and

(ii) the mass of each sample shipment does not exceed 10,000 kg; the 10,000 kg quantity may be media contaminated with non-acute hazardous waste, or may include 2500 kg of media contaminated with acute hazardous waste, 1000 kg of hazardous waste, and 1 kg of acute hazardous waste; and

(iii) the sample shall be packaged so that it will not leak, spill, or vaporize from its packaging during shipment and the requirements of Subsection[~~s~~] R315-261-4(e)(2)(iii)(A) or R315-261-4(e)(2)(iii)(B) are met.

(A) The transportation of each sample shipment complies with [~~U.S. Department of Transportation (~~]DOT[~~)~~], [~~U.S. Postal Service (~~]USPS[~~)~~], or any other applicable shipping requirements; or

(B) If the DOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the[~~following~~] information listed in Subsections R315-261-4(e)(2)(iii)(B)(I) through R315-261-4(e)(2)(iii)(B)(V) shall accompany the sample:

(I) the name, mailing address, and telephone number of the originator of the sample;

(II) the name, address, and telephone number of the facility that will perform the treatability study;

(III) the quantity of the sample;

(IV) the date of shipment; and

(V) a description of the sample, including its EPA Hazardous Waste Number.

(iv) The sample is shipped to a laboratory or testing facility [~~which~~]that is exempt under Subsection R315-261-4(f) or has an appropriate [~~RCRA~~]hazardous waste permit or interim status.

(v) The generator or sample collector maintains the [~~following~~]records listed in Subsections R315-261-4(e)(2)(v)(A) through R315-261-4(e)(2)(v)(C) for a period ending three years after completion of the treatability study:

(A) copies of the shipping documents;

(B) a copy of the contract with the facility conducting the treatability study;

(C) documentation showing:

(I) the amount of waste shipped under this exemption;

(II) the name, address, and EPA identification number of the laboratory or testing facility that received the waste;

(III) the date the shipment was made; and

(IV) whether or not unused samples and residues were returned to the generator.

(vi) The generator reports the information required under Subsection R315-261-4(e)(2)(v)(C) in its biennial report.

(3) The director may grant requests on a case-by-case basis for up to an additional two years for treatability studies involving bioremediation. The director may grant requests on a case-by-case basis for quantity limits in excess of those specified in Subsections R315-261-4(e)(2)(i) and R315-261-4(e)(2)(ii) and Subsection R315-261-4(f)(4), for up to an additional 5000 kg of media contaminated with non-acute hazardous waste, 500 kg of non-acute hazardous waste, 2500 kg of media contaminated with acute hazardous waste and 1 kg of acute hazardous waste.

(i) In response to requests for authorization to ship, store and conduct treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing these requests include the nature of the technology; the type of process, batch versus continuous; size of the unit undergoing testing, particularly in relation to scale-up considerations; the time or quantity of material required to reach steady state operating conditions; or test design considerations such as mass balance calculations.

(ii) In response to requests for authorization to ship, store and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies, if:

(A) [~~T~~]there has been an equipment or mechanical failure during the conduct of a treatability study;

(B) there is a need to verify the results of a previously conducted treatability study;

(C) there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or

(D) there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.

(iii) The additional quantities and timeframes allowed in Subsections R315-261-4(e)(3)(i) and R315-261-4(e)(3)(ii) are subject to Subsections R315-261-4(e)(1) and R315-261-4(e)(2)(iii) through R315-261-4(e)(2)(vi). The generator or sample collector shall apply to the director and provide in writing the [~~following~~]information listed in Subsections R315-261-4(e)(3)(iii)(A) through R315-261-4(e)(3)(iii)(E):

(A) the reason why the generator or sample collector requires additional time or quantity of sample for treatability study evaluation and the additional time or quantity needed;

(B) documentation accounting for any samples of hazardous waste from the waste stream [~~which~~]that have been sent for or undergone treatability studies including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility [~~to which~~]that it was shipped to, what treatability study processes were conducted on each sample shipped, and the available results on each treatability study;

(C) a description of the technical modifications or change in specifications [~~which~~]that will be evaluated and the expected results;

(D) if further study is being required due to equipment or mechanical failure, the applicant shall include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and

(E) other information that the director considers necessary.

(4) To qualify for the exemption in Subsection R315-261-4(e)(1)(i), the mass of a sample that will be exported to a foreign laboratory or testing facility or that will be imported to a U.S. laboratory or testing facility from a foreign source shall additionally not exceed 25 kg.

(f) Samples Undergoing Treatability Studies at Laboratories and Testing Facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting the treatability studies, to the extent the facilities are not otherwise subject to RCRA requirements, are

not subject to any requirement of Rules R315-261 through R315-266, R315-268, and R315-270, or to the notification requirements of Section 3010 of RCRA provided the conditions of Subsections R315-261-4(f)(1) through R315-261-4(f)(11) are met. A mobile treatment unit (MTU) may qualify as a testing facility subject to Subsections R315-261-4(f)(1) through R315-261-4(f)(11). [~~When~~]If a group of MTUs are located at a site, the limitations specified in Subsections R315-261-4(f)(1) through R315-261-4(f)(11) apply to the entire group of MTUs collectively as if the group were one MTU.

(1) No less than 45 days before conducting treatability studies, the facility notifies the director, in writing that it intends to conduct treatability studies under Subsection R315-261-4(f).

(2) The laboratory or testing facility conducting the treatability study has an EPA identification number.

(3) No more than a total of 10,000 kg of "as received" media contaminated with non-acute hazardous waste, 2500 kg of media contaminated with acute hazardous waste or 250 kg of other "as received" hazardous waste is subject to initiation of treatment in treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.

(4) The quantity of "as received" hazardous waste stored at the facility for [~~the purpose of~~]evaluation in treatability studies does not exceed 10,000 kg, the total [~~of which~~]can include 10,000 kg of media contaminated with non-acute hazardous waste, 2500 kg of media contaminated with acute hazardous waste, 1000 kg of non-acute hazardous wastes other than contaminated media, and 1 kg of acute hazardous waste. This quantity limitation does not include treatment materials, including nonhazardous solid waste, added to "as received" hazardous waste.

(5) No more than 90 days have elapsed since the treatability study for the sample was [~~completed~~]finished, or no more than one year, two years for treatability studies involving bioremediation, have elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.

(6) The treatability study does not involve the placement of hazardous waste on the land or open burning of hazardous waste.

(7) The facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The [~~following~~]specific information listed in Subsections R315-261-4(f)(7)(i) through R315-261-4(f)(7)(vii) shall be included for each treatability study conducted:

(i) the name, address, and EPA identification number of the generator or sample collector of each waste sample;

(ii) the date the shipment was received;

(iii) the quantity of waste accepted;

(iv) the quantity of "as received" waste in storage each day;

(v) the date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;

(vi) the date the treatability study was concluded; and

(vii) the date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the EPA identification number.

(8) The facility keeps, on-site, a copy of the treatability study contract and any shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.

(9) The facility prepares and submits a report to the director, by March 15 of each year, that includes the[~~following~~] information listed in Subsections R315-261-4(f)(9)(i) through R315-261-4(f)(9)(vii) for the previous calendar year:

(i) the name, address, and EPA identification number of the facility conducting the treatability studies;

(ii) the types, by process, of treatability studies conducted;

(iii) the names and addresses of persons for whom studies have been conducted, including their EPA identification numbers;

(iv) the total quantity of waste in storage each day;

(v) the quantity and types of waste subjected to treatability studies;

(vi) when each treatability study was conducted; and

(vii) the final disposition of residues and unused sample from each treatability study.

(10) The facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under Section R315-261-3 and, if so, are subject to Rules R315-261 through R315-268 and R315-270, unless the residues and unused samples are returned to the sample originator under the Subsection R315-261-4(e) exemption.

(11) The facility notifies the director, by letter when the facility is no longer planning to conduct any treatability studies at the site.

(g) Dredged material that is not a hazardous waste. Dredged material that is subject to the requirements of a permit that has been issued under 404 of the Federal Water Pollution Control Act, 33 U.S.C. 1344, or section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972, 33 U.S.C. 1413, is not a hazardous waste. For Subsection R315-261-4(g), the[~~following~~] definitions in Subsections R315-261-4(g)(1) and R315-261-4(g)(2) apply:

(1) The term "dredged material" has the meaning as defined in 40 CFR 232.2;

(2) The term "permit" means:

(i) a permit issued by the U.S. Army Corps of Engineers (Corps) or an approved state under section 404 of the Federal Water Pollution Control Act, 33 U.S.C. 1344;

(ii) a permit issued by the Corps under section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972, 33 U.S.C. 1413; or

(iii) in the case of Corps civil works projects, the administrative equivalent of the permits referred to in Subsections R315-261-4(g)(2)(i) and R315-261-4(g)(2)(ii), as provided for in Corps regulations.

(h) Carbon dioxide stream injected for geologic sequestration. Carbon dioxide streams that are captured and transported for purposes of injection into an underground injection well subject to the requirements for Class VI Underground Injection Control wells, including the

requirements in Rule R317-7, are not a hazardous waste, provided the [~~following~~]conditions in Subsections R315-261-4(h)(1) through R315-261-4(h)(4) are met:

(1) transportation of the carbon dioxide stream shall be in compliance with U.S. Department of Transportation requirements, including the pipeline safety laws, 49 U.S.C. 60101 et seq. and regulations, 49 CFR Parts 190-199, of the U.S. Department of Transportation, and pipeline safety regulations adopted and administered by a state authority pursuant to a certification under 49 U.S.C. 60105, as applicable;

(2) injection of the carbon dioxide stream shall be in compliance with the applicable requirements for Class VI Underground Injection Control wells, including the applicable requirements in Rule R317-7;

(3) no hazardous wastes shall be mixed with, or otherwise co-injected with, the carbon dioxide stream; and

(4)(i) Any generator of a carbon dioxide stream, who claims that a carbon dioxide stream is excluded under Subsection R315-261-4(h), shall have an authorized representative, as defined in Section R315-260-10, sign a certification statement worded as follows: "I certify under penalty of law that the carbon dioxide stream that I am claiming to be excluded under Subsection R315-261-4(h) has not been mixed with hazardous wastes, and I have transported the carbon dioxide stream in compliance with, or have contracted with a pipeline operator or transporter to transport the carbon dioxide stream in compliance with, Department of Transportation requirements, including the pipeline safety laws, 49 U.S.C. 60101 et seq., and regulations, 49 CFR Parts 190-199, of the U.S. Department of Transportation, and the pipeline safety regulations adopted and administered by a state authority pursuant to a certification under 49 U.S.C. 60105, as applicable, for injection into a well subject to the requirements for the Class VI Underground Injection Control Program of Rule R317-7."

(ii) Any Class VI Underground Injection Control well owner or operator, who claims that a carbon dioxide stream is excluded under Subsection R315-261-4(h), shall have an authorized representative, as defined in Section R315-260-10, sign a certification statement worded as follows: "I certify under penalty of law that the carbon dioxide stream that I am claiming to be excluded under Subsection R315-261-4(h) has not been mixed with, or otherwise co-injected with, hazardous waste at the Underground Injection Control (UIC) Class VI permitted facility, and that injection of the carbon dioxide stream is in compliance with the applicable requirements for UIC Class VI wells, including the applicable requirements in Rule R317-7."

(iii) The signed certification statement shall be kept on-site for no less than three years, and shall be made available within 72 hours of a written request from the director. The signed certification statement shall be renewed each year that the exclusion is claimed, by having an authorized representative, as defined in Section R315-260-10, annually prepare and sign a new copy of the certification statement within one year of the date of the previous statement. The signed certification statement shall also be readily accessible on the facility's publicly[~~-~~] available [~~Web -~~]website, if the [~~Web -~~]website exists, as a public notification with the title of "Carbon Dioxide Stream Certification" [~~at the time~~]when the exclusion is claimed.

(i) Reserved

(j)(1) Airbag waste at the airbag waste handler or during transport to an airbag waste collection facility or designated facility is not subject to regulation under Rules R315-262 through R315-268, R315-270 or R315-124, and is not subject to the notification requirements of section 3010 of RCRA provided:

(i) the airbag waste is accumulated in a quantity of no more than 250 airbag modules or airbag inflators, for no longer than 180 days;

(ii) the airbag waste is packaged in a container designed to address the risk posed by the airbag waste and labeled "Airbag Waste -- Do Not Reuse;" and

(iii) the airbag waste is sent directly to either:

(A) an airbag waste collection facility in the United States under the control of a vehicle manufacturer or their authorized representative, or under the control of an authorized [~~party~~]person administering a remedy program in response to a recall under the National Highway Traffic Safety Administration[~~,~~]; or

(B) a designated facility as defined in Section R315-260-10;

(iv) [~~T~~]the transport of the airbag waste complies with applicable U.S. Department of Transportation regulations in 49 CFR part 171 through 180 during transit; and

(v) [~~T~~]the airbag waste handler maintains at the handler facility for no less than three years records of each off-site shipment of airbag waste and each confirmation of receipt from the receiving facility. For each shipment, these records shall, at a minimum, contain the name of the transporter and date of the shipment; name and address of receiving facility; and the type and quantity of airbag waste, that is, airbag modules or airbag inflators, in the shipment. Confirmations of receipt shall include the name and address of the receiving facility; the type and quantity of the airbag waste, that is, airbag modules and airbag inflators, received; and the date [~~which~~]that it was received. Shipping records and confirmations of receipt shall be made available for inspection and may be satisfied by routine business records such as electronic or paper financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations of receipt.

(2) Once the airbag waste arrives at an airbag waste collection facility or designated facility, it becomes subject to applicable hazardous waste rules, and the facility receiving airbag waste is considered the hazardous waste generator for the purposes of the hazardous waste rules and shall comply with the requirements of Rule R315-262.

(3) Reuse in vehicles of defective airbag modules or defective airbag inflators subject to a recall under the National Highway Traffic Safety Administration is considered sham recycling and prohibited under Subsection R315-261-2(g).

R315-261-6. Requirements for Recyclable Materials.

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

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

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

(ii) hazardous wastes burned, as defined in Subsection R315-266-100(a), in boilers and industrial furnaces that are not regulated under Sections R315-264-340 through R315-264-345, R315-264-347, and R315-264-351 or R315-265-340 through R315-265-369[~~40 CFR 265.340 through 40 CFR 265.369, which is incorporated by reference in Section R315-265-1~~], Sections R315-266-100 through R315-266-112;

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

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

(3) The [~~following~~]recyclable materials listed in Subsections R315-261-6(a)(3)(i) through R315-261-6(a)(3)(iv) are not subject to regulation under Rules R315-262 through R315-268, R315-270, and R315-124, and are not subject to the notification requirements of section 3010 of RCRA:

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

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

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

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

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

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

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

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

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

(c)(1) Owners and operators of facilities that store recyclable materials before they are recycled are regulated under the applicable requirements of Sections R315-264-1 through R315-264-259, R315-264-1030 through R315-264-1102, R315-265-1 through R315-265-260, R315-265-1030 through R315-265-1102 of Rules R315-264 and R315-265, and under Rules R315-266, R315-268, R315-270, and R315-124 and the notification requirements under section 3010 of RCRA, except as provided in Subsection R315-261-6(a). The recycling process itself is exempt from regulation except as provided in Subsection R315-261-6(d).

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

(i) notification requirements under section 3010 of RCRA;

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

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

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

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

R315-261-11. Criteria for Listing Hazardous Waste.

(a) The Board shall list a solid waste as a hazardous waste only upon determining that the solid waste meets one of the [~~following~~]criteria in Subsections R315-261-11(a)(1) through R315-261-11(a)(3):

(1) It exhibits any of the characteristics of hazardous waste identified in Sections R315-261-20 through R315-261-24.

(2) It has been found to be fatal to humans in low doses or, in the absence of data on human toxicity, it has been shown in studies to have an oral LD 50 toxicity, rat, of less than 50 milligrams per kilogram, an inhalation LC 50 toxicity, rat, of less than 2 milligrams per liter, or a dermal LD 50 toxicity, rabbit, of less than 200 milligrams per kilogram or is otherwise capable of causing or significantly contributing to an increase in serious irreversible, or incapacitating reversible, illness. Waste listed in accordance with these criteria shall be designated Acute Hazardous Waste.

(3) It contains any of the toxic constituents listed in Rule R315-261 appendix VIII, Section R315-261-1092, and, after considering the [~~following~~]factors listed in Subsections R315-261-11(a)(3)(i) through R315-261-11(a)(3)(xi), the Board concludes that the waste is capable

of posing a substantial present or potential hazard to human health or the environment [~~when~~]if improperly treated, stored, transported or disposed of, or otherwise managed:

(i) The nature of the toxicity presented by the constituent.

(ii) The concentration of the constituent in the waste.

(iii) The potential of the constituent or any toxic degradation product of the constituent to migrate from the waste into the environment under the types of improper management considered in Subsection R315-261-11(a)(3)(vii).

(iv) The persistence of the constituent or any toxic degradation product of the constituent.

(v) The potential for the constituent or any toxic degradation product of the constituent to degrade into non-harmful constituents and the rate of degradation.

(vi) The degree to which the constituent or any degradation product of the constituent bioaccumulates in ecosystems.

(vii) The plausible types of improper management [~~to which~~]that the waste could be subjected to.

(viii) The quantities of the waste generated at individual generation sites or on a regional or national basis.

(ix) The nature and severity of the human health and environmental damage that has occurred as a result of the improper management of wastes containing the constituent.

(x) Action taken by other governmental agencies or regulatory programs based on the health or environmental hazard posed by the waste or waste constituent.

(xi) [~~Such o~~]Other factors as may be appropriate. Substances shall be listed on appendix VIII, Section R315-261-1092, of Rule R315-261 only if they have been shown in scientific studies to have toxic, carcinogenic, mutagenic or teratogenic effects on humans or other life forms. Wastes listed in accordance with these criteria shall be designated Toxic wastes.

(b) The Board may list classes or types of solid waste as hazardous waste if it has reason to believe that individual wastes, within the class or type of waste, typically or [~~frequently~~]often are hazardous under the definition of hazardous waste found in Section 19-6-102.

[~~(c) The Board shall use the criteria for listing specified in Section R315-261-11 to establish the exclusion limits referred to in Subsection R315-261-5(c).~~]

R315-261-21. Characteristics of Hazardous Waste - Characteristic of Ignitability.

(a) A solid waste exhibits the characteristic of ignitability if a representative sample of the waste has any of the[~~following~~] properties listed in Subsections R315-261-21(a)(1) through R315-261-21(a)(4):

(1) It is a liquid, other than a[~~n aqueous~~] solution containing less than 24% [~~percent~~]alcohol by volume and at least 50% water by weight, that has a flash point less than 60 degrees C, that is[~~(~~]140 degrees F[~~)~~], as determined by using one of the following ASTM Standards: [~~a Pensky-Martens Closed Cup Tester, using the test method specified in~~]ASTM [~~Standard~~]D 93-79, [~~or~~]D 93-80, [~~see Section R315-260-11, or a Setaflash Closed-Cup Tester, using the test method specified in~~]ASTM [~~Standard~~]D 3278-78, D8174-18, or D8175-18 as specified in SW-846 Test Methods 1010B or 1020C, which are incorporated by reference, see Section R315-260-11.

(2) It is not a liquid and is capable, under standard temperature and pressure, of causing fire through friction, absorption of moisture or spontaneous chemical changes and, [~~when~~]if ignited, burns so vigorously and persistently that it creates a hazard.

(3) It is an ignitable compressed gas.

(i) The term "compressed gas" shall designate any material or mixture having in the container an absolute pressure exceeding 40 p.s.i.[-] at 70 degrees Fahrenheit or, regardless of the pressure at 70 degrees Fahrenheit, having an absolute pressure exceeding 104 p.s.i.[-] at 130 degrees Fahrenheit[~~;~~], or any liquid flammable material having a vapor pressure exceeding 40 p.s.i.[-] absolute at 100 degrees Fahrenheit as determined by ASTM Test D-323.

(ii) A compressed gas shall be characterized as ignitable if any one of the [~~following~~]conditions listed in Subsection R315-261-21(a)(3)(ii)(A) or R315-261-21(a)(3)(ii)(B) occurs:

(A) Either a mixture of 13% [~~percent~~]or less, by volume, with air forms a flammable mixture or the flammable range with air is wider than 12% [~~percent~~]regardless of the lower limit. These limits shall be determined at atmospheric temperature and pressure. The method of sampling and test procedure shall be the ASTM E681-85, incorporated by reference, see Section R315-260-11, [~~acceptable to the Bureau of Explosives and approved by the director, ~~]or other equivalent methods approved by the Associate Administrator, Pipeline and Hazardous Materials Safety Administration[~~Technology~~], U.S. Department of Transportation[~~, see Note 2~~].

(B) It is determined to be flammable or extremely flammable using 49 CFR 173.115(l).[~~Using the Bureau of Explosives' Flame Projection Apparatus, see Note 1, the flame projects more than 18 inches beyond the ignition source with valve opened fully, or, the flame flashes back and burns at the valve with any degree of valve opening.~~]

[~~(C) Using the Bureau of Explosives' Open Drum Apparatus, see Note 1, there is any significant propagation of flame away from the ignition source.~~]

[~~(D) Using the Bureau of Explosives' Closed Drum Apparatus, see Note 1, there is any explosion of the vapor-air mixture in the drum.~~]

(4) It is an oxidizer. An oxidizer for [~~the purpose of~~]Section R315-261-21 [~~this subchapter~~]is a substance such as a chlorate, permanganate, inorganic peroxide, or a nitrate, that yields oxygen readily to stimulate the combustion of organic matter[~~ (see Note 4)~~].

(i) An organic compound containing the bivalent -O-O- structure and [~~which~~]that may be considered a derivative of hydrogen peroxide where one or more of the hydrogen atoms have been replaced by organic radicals shall be classed as an organic peroxide unless:

(A) [~~T~~]the material meets the definition of a Division 1.1, 1.2, or 1.3[~~Class A explosive or a Class B~~] explosive, as defined in Subsection R315-261-23(a)(8), in which case it shall be classed as an explosive[~~,~~];

(B) [~~T~~]the material is forbidden to be offered for transportation according to 49 CFR 172.101 and 49 CFR 173.21[~~,~~];

(C) [~~I~~]it is determined that the predominant hazard of the material containing an organic peroxide is other than that of an organic peroxide[~~,~~]; or

(D) [~~A~~]according to data on file with the Pipeline and Hazardous Materials Safety Administration in the U.S. Department of Transportation[~~ (see Note 3)~~], it has been determined that the material does not present a hazard in transportation.

(b) A solid waste that exhibits the characteristic of ignitability has the EPA Hazardous Waste Number of D001.

[~~Note 1: A description of the Bureau of Explosives' Flame Projection Apparatus, Open Drum Apparatus, Closed Drum Apparatus, and method of tests may be procured from the Bureau of Explosives.~~

~~Note 2: As part of a U.S. Department of Transportation (DOT) reorganization, the Office of Hazardous Materials Technology (OHMT), which was the office listed in the 1980 publication of 49 CFR 173.300 for the purposes of approving sampling and test procedures for a flammable gas, ceased operations on February 20, 2005. OHMT programs have moved to the Pipeline and Hazardous Materials Safety Administration (PHMSA) in the DOT.~~

~~Note 3: As part of a U.S. Department of Transportation (DOT) reorganization, the Research and Special Programs Administration (RSPA), which was the office listed in the 1980 publication of 49 CFR 173.151a for the purposes of determining that a material does not present a hazard in transport, ceased operations on February 20, 2005. RSPA programs have moved to the Pipeline and Hazardous Materials Safety Administration (PHMSA) in the DOT.~~

~~Note 4: The DOT regulatory definition of an oxidizer was contained in Section 173.151 of 49 CFR, and the definition of an organic peroxide was contained in paragraph 173.151a. An organic peroxide is a type of oxidizer.~~]

R315-261-30. Lists of Hazardous Wastes - General.

(a) A solid waste is a hazardous waste if it is listed in Sections R315-261-30 through R315-261-35, unless it has been excluded from this list under Sections R315-260[~~.~~]-20 and R315-261-22.

(b) The Board shall [~~indicate~~]show the basis for listing the classes or types of wastes listed in Sections R315-261-30 through R315-261-35 by [~~employing~~]using one or more of the [~~following~~]Hazard Codes listed in Subsections R315-261-30(b)(1) through R315-261-30(b)(6):

(1) Ignitable Waste: (I)

(2) Corrosive Waste: (C)

(3) Reactive Waste: (R)

(4) Toxicity Characteristic Waste: (E)

(5) Acute Hazardous Waste: (H)

(6) Toxic Waste: (T)

Appendix VII identifies the constituent [~~which~~]that caused the Board to list the waste as a Toxicity Characteristic Waste or Toxic Waste in Sections R315-261-31 and R315-261-32.

(c) Each hazardous waste listed in Sections R315-261-30 through R315-261-35 is assigned an EPA Hazardous Waste Number [~~which~~]that precedes the name of the waste. This number shall be used in complying with the notification requirements of Section 3010 of the RCRA and certain recordkeeping and reporting requirements under Rules R315-262 through R315-265, R315-268, and R315-270.

(d) The following hazardous wastes listed in Section R315-261-31 are subject to the [~~exclusion~~]generator category limits for acutely hazardous wastes established in Table 1 of Section R315-262-13[~~R315-261-5~~]: EPA Hazardous Wastes Nos. F020, F021, F022, F023, F026 and F027.

R315-261-141. Financial Requirements for Management of Excluded Hazardous Secondary Materials - Definitions of Terms as Used in Sections R315-261-140 Through R315-261-151.

The terms defined in [~~40 CFR ~~]Subsections R315-265[~~.~~]-141(d), R315-265-141(f), R315-265-141(g), and R315-265-141(h)[~~, which are adopted by reference,~~] have the same meaning in Sections R315-261-140 through R315-261-143 and R315-261-147 through R315-261-151 as they do in Section R315-265-141[~~40 CFR 265.141, which is adopted by reference~~].

R315-261-142. Financial Requirements for Management of Excluded Hazardous Secondary Materials - Cost Estimate.

(a) The owner or operator shall have a detailed written estimate, in current dollars, of the cost of disposing of any hazardous secondary material as listed or characteristic hazardous waste, and the potential cost of closing the facility as a treatment, storage, and disposal facility.

(1) The estimate shall equal the cost of conducting the activities described in Subsection R315-261-142(a) at the point when the extent and manner of the facility's operation would make these activities the most expensive[~~; and~~].

(2) The cost estimate shall be based on the costs to the owner or operator of hiring a third party to conduct these activities. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. See the definition of "parent corporation" in [~~40 CFR ~~]Subsection R315-265[~~.~~]-141(d)[~~, which is adopted by reference~~]. The owner or operator may use costs for on-site disposal in accordance with applicable requirements if [~~he~~]the owner or operator can demonstrate that on-site disposal capacity will exist [~~at all times~~]always over the life of the facility.

(3) The cost estimate may not incorporate any salvage value that may be realized with the sale of hazardous secondary materials, or hazardous or non-hazardous wastes if applicable under [~~40 CFR ~~]Subsection R315-265[~~.~~]-113(d), [~~which is adopted by reference; ~~]facility structures or equipment, land, or other assets associated with the facility.

(4) The owner or operator may not incorporate a zero cost for hazardous secondary materials, or hazardous or non-hazardous wastes if applicable under [~~40 CFR ~~]Subsection R315-265[~~.~~]-113(d), [~~which is adopted by reference, ~~]that might have economic value.

(b) During the active life of the facility, the owner or operator shall adjust the cost estimate for inflation within 60 days [~~prior to~~]before the anniversary date of the establishment of the financial instrument[~~(~~]s[~~)~~] used to comply with Section R315-261-143. For owners and operators using the financial test or corporate guarantee, the cost estimate shall be updated for inflation within 30 days after the close of the firm's fiscal year and before submission of updated information to the [~~Director~~]director as specified in Subsection R315-261-143(e)(3). The adjustment may be made by recalculating the cost estimate in current dollars, or by using an inflation factor derived from the most recent

Implicit Price Deflator for Gross National Product published by the U.S. Department of Commerce in its Survey of Current Business, as specified in Subsections R315-261-142(b)(1) and R315-261-142(b)(2). The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

(1) The first adjustment is made by multiplying the cost estimate by the inflation factor. The result is the adjusted cost estimate.

(2) Subsequent adjustments are made by multiplying the latest adjusted cost estimate by the latest inflation factor.

(c) During the active life of the facility, the owner or operator shall revise the cost estimate no later than 30 days after a change in a facility's operating plan or design that would increase the costs of conducting the activities described in Subsection R315-261-142(a) or no later than 60 days after an unexpected event [~~which~~]that increases the cost of conducting the activities described in Subsection R315-261-142(a). The revised cost estimate shall be adjusted for inflation as specified in Subsection R315-261-142(b).

(d) The owner or operator shall keep the following at the facility during the operating life of the facility: The latest cost estimate prepared in accordance with Subsections R315-261-142(a) and R315-261-142(c) and, [~~when~~]if this estimate has been adjusted in accordance with Subsection R315-261-142(b), the latest adjusted cost estimate.

R315-261-143. Financial Requirements for Management of Excluded Hazardous Secondary Materials - Financial Assurance Condition.

As provided in Subsection R315-261-4(a)(24)(vi)(F), an owner or operator of a reclamation or intermediate facility shall have financial assurance as a condition of the exclusion as required under Subsection R315-261-4(a)(24). [~~He~~]The owner or operator shall choose from the options as specified in Subsections R315-261-143(a) through R315-261-143(e).

(a) Trust fund.

(1) An owner or operator may satisfy the requirements of Section R315-261-143 by establishing a trust fund [~~which~~]that conforms to the requirements of Subsection R315-261-143(a) and submitting an originally signed duplicate of the trust agreement to the [~~Director~~]director. The trustee shall be an entity [~~which~~]that has the authority to act as a trustee and whose trust operations are regulated and examined by a [~~F~~]federal or [~~S~~]state agency.

(2) The wording of the trust agreement shall be identical to the wording specified in Subsection R315-261-151(a)(1), and the trust agreement shall be accompanied by a formal certification of acknowledgment, for example, see Subsection R315-261-151(a)(2). Schedule A of the trust agreement shall be updated within 60 days after a change in the amount of the current cost estimate covered by the agreement.

(3) The trust fund shall be funded for the full amount of the current cost estimate before it may be relied upon to satisfy the requirements of Section R315-261-143.

(4) [~~Whenever~~]If the current cost estimate changes, the owner or operator shall compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within 60 days after the change in the cost estimate, shall either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current cost estimate, or [~~obtain~~]get other financial assurance as specified in Section R315-261-143 to cover the difference.

(5) If the value of the trust fund is greater than the total amount of the current cost estimate, the owner or operator may submit a written request to the [~~Director~~]director for release of the amount in excess of the current cost estimate.

(6) If an owner or operator substitutes other financial assurance as specified in Section R315-261-143 for [~~all~~]the trust fund or part of the trust fund, [~~he~~]the owner or operator may submit a written request to the [~~Director~~]director for release of the amount in excess of the current cost estimate covered by the trust fund.

(7) Within 60 days after receiving a request from the owner or operator for release of funds as specified in Subsection[~~s~~] R315-261-143(a)(5) or R315-261-143(a)(6), the [~~Director~~]director shall instruct the trustee to release to the owner or operator [~~such~~]those funds [~~as~~]that the [~~D~~]director specifies in writing. If the owner or operator begins final closure under Sections R315-264-110 through R315-264-120 or [~~40 CFR~~]R315-265[~~.~~]-110 through R315-265-121, [~~which is adopted by reference;~~]an owner or operator may request reimbursements for partial or final closure expenditures by submitting itemized bills to the [~~Director~~]director. The owner or operator may request reimbursements for partial closure only if [~~sufficient~~]enough funds are remaining in the trust fund to cover the maximum costs of closing the facility over its remaining operating life. No later than 60 days after receiving bills for partial or final closure activities, the [~~Director~~]director shall instruct the trustee to make reimbursements in those amounts as the [~~Director~~]director specifies in writing, if the [~~Director~~]director determines that the partial or final closure expenditures are in accordance with the approved closure plan, or otherwise justified. If the [~~Director~~]director has reason to believe that the maximum cost of closure over the remaining life of the facility will be significantly greater than the value of the trust fund, [~~he~~]the director may withhold reimbursements of [~~such~~]any amounts [~~as~~]that [~~he~~]the director considers [~~deems~~]prudent until [~~he~~]the director determines, in accordance with Subsection R315-261-143(i) [~~40 CFR 265.143(i), which is adopted by reference,~~]that the owner or operator is no longer required to maintain financial assurance for final closure of the facility. If the [~~Director~~]director does not instruct the trustee to make [~~such~~]the reimbursements, [~~he~~]the director shall provide to the owner or operator a detailed written statement of reasons.

(8) The [~~Director~~]director shall agree to termination of the trust [~~when~~]if:

(i) [~~A~~]an owner or operator substitutes alternate financial assurance as specified in Section R315-261-143; or

(ii) [~~T~~]the [~~Director~~]director releases the owner or operator from the requirements of Section R315-261-143 in accordance with Subsection R315-261-143(i).

(b) Surety bond guaranteeing payment into a trust fund.

(1) An owner or operator may satisfy the requirements of Section R315-261-143 by [~~obtaining~~]getting a surety bond [~~which~~]that conforms to the requirements of Subsection R315-261-143(b) and submitting the bond to the [~~Director~~]director. The surety company issuing the bond shall, at a minimum, be among those listed as acceptable sureties on [~~F~~]federal bonds in Circular 570 of the U.S. Department of the Treasury.

(2) The wording of the surety bond shall be identical to the wording specified in Subsection R315-261-151(b).

(3) The owner or operator who uses a surety bond to satisfy the requirements of Section R315-261-143 shall also establish a standby trust fund. Under the terms of the bond, [~~all~~]any payments made thereunder shall be deposited by the surety directly into the standby trust fund in accordance with instructions from the [~~Director~~]director. This standby trust fund shall meet the requirements specified in Subsection R315-261-143(a), except that:

(i) [~~A~~]an originally signed duplicate of the trust agreement shall be submitted to the [~~Director~~]director with the surety bond; and

(ii) [~~U~~]until the standby trust fund is funded pursuant to the requirements of Section R315-261-143, [~~the following are~~]the owner or operator is not required to comply with Subsections R315-261-143(b)(3)(ii)(A) through R315-261-143(b)(3)(ii)(D)[~~by these regulations~~]:

(A) Payments into the trust fund as specified in Subsection R315-261-143(a);

(B) Updating of Schedule A of the trust agreement, see Subsection R315-261-151(a), to show current cost estimates;

(C) Annual valuations as required by the trust agreement; and

(D) Notices of nonpayment as required by the trust agreement.

(4) The bond shall guarantee that the owner or operator shall:

(i) [~~F~~]fund the standby trust fund in an amount equal to the penal sum of the bond before loss of the exclusion under Subsection R315-261-4(a)(24); or

(ii) [~~F~~]fund the standby trust fund in an amount equal to the penal sum within 15 days after an administrative order to begin closure issued by the [~~Director~~]director becomes final, or within 15 days after an order to begin closure is issued by a U.S. district court or other court of competent jurisdiction; or

(iii) [~~P~~]provide alternate financial assurance as specified in Section R315-261-143, and [~~obtain~~]get the [~~Director's~~]director's written approval of the assurance provided, within 90 days after receipt by both the owner or operator and the [~~Director~~]director of a notice of cancellation of the bond from the surety.

(5) Under the terms of the bond, the surety shall become liable on the bond obligation [~~when~~]if the owner or operator fails to perform as guaranteed by the bond.

(6) The penal sum of the bond shall be in an amount at least equal to the current cost estimate, except as provided in Subsection R315-261-143(f).

(7) [~~Whenever~~]If the current cost estimate increases to an amount greater than the penal sum, the owner or operator, within 60 days after the increase, shall either cause the penal sum to be increased to an amount at least equal to the current cost estimate and submit evidence of [~~such~~]the increase to the [~~Director~~]director, or [~~obtain~~]get other financial assurance as specified in Section R315-261-143 to cover the increase. [~~Whenever~~]If the current cost estimate decreases, the penal sum may be reduced to the amount of the current cost estimate following written approval by the [~~Director~~]director.

(8) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the [~~Director~~]director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the [~~Director~~]director, as evidenced by the return receipts.

(9) The owner or operator may cancel the bond if the [~~Director~~]director has given [~~prior~~]earlier written consent based on [~~his~~]the director's receipt of evidence of alternate financial assurance as specified in Section R315-261-143.

(c) Letter of credit.

(1) An owner or operator may satisfy the requirements of Section R315-261-143 by [~~obtaining~~]getting an irrevocable standby letter of credit [~~which~~]that conforms to the requirements of Subsection R315-261-143(c) and submitting the letter to the [~~Director~~]director. The issuing institution shall be an entity [~~which~~]that has the authority to issue letters of credit and whose letter[-] of[-] credit operations are regulated and examined by a [~~F~~]federal or [~~S~~]state agency.

(2) The wording of the letter of credit shall be identical to the wording specified in Subsection R315-261-151(c).

(3) An owner or operator who uses a letter of credit to satisfy the requirements of Section R315-261-143 shall also establish a standby trust fund. Under the terms of the letter of credit, [~~all~~]any amounts paid pursuant to a draft by the [~~Director~~]director shall be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the [~~Director~~]director. This standby trust fund shall meet the requirements of the trust fund specified in Subsection R315-261-143(a), except that:

(i) [~~A~~]an originally signed duplicate of the trust agreement shall be submitted to the [~~Director~~]director with the letter of credit; and

(ii) [~~U~~]unless the standby trust fund is funded pursuant to the requirements of Section R315-261-143, the [~~following are~~]owner or operator is not required to comply with Subsections R315-261-143(c)(3)(ii)(A) through R315-261-143(c)(3)(ii)(D)[~~by these regulations~~]:

(A) Payments into the trust fund as specified in Subsection R315-261-143(a);

(B) Updating of Schedule A of the trust agreement, see Subsection R315-261-151(a), to show current cost estimates;

(C) Annual valuations as required by the trust agreement; and

(D) Notices of nonpayment as required by the trust agreement.

(4) The letter of credit shall be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date, and providing the following information: t[~~T~~]he EPA Identification Number, if any issued; name; and address of the facility; and the amount of funds assured for the facility by the letter of credit.

(5) The letter of credit shall be irrevocable and issued for a period of at least 1 year. The letter of credit shall provide that the expiration date shall be automatically extended for a period of at least 1 year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the [~~Director~~]director by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the [~~Director~~]director have received the notice, as evidenced by the return receipts.

(6) The letter of credit shall be issued in an amount at least equal to the current cost estimate, except as provided in Subsection R315-261-143(f).

(7) [~~Whenever~~]If the current cost estimate increases to an amount greater than the amount of the credit, the owner or operator, within 60 days after the increase, shall either cause the amount of the credit to be increased so that it at least equals the current cost estimate and submit evidence of [~~such~~]the increase to the [~~Director~~]director, or [~~obtain~~]get other financial assurance as specified in Section R315-261-143 to cover the increase. [~~Whenever~~]If the current cost estimate decreases, the amount of the credit may be reduced to the amount of the current cost estimate following written approval by the [~~Director~~]director.

(8) Following a determination by the [~~Director~~]director that the hazardous secondary materials do not meet the conditions of the exclusion under Subsection R315-261-4(a)(24), the [~~Director~~]director may draw on the letter of credit.

(9) If the owner or operator does not establish alternate financial assurance as specified in Section R315-261-143 and [~~obtain~~]get written approval of [~~such~~]the alternate assurance from the [~~Director~~]director within 90 days after receipt by both the owner or operator and the [~~Director~~]director of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the [~~Director~~]director shall draw on the letter of credit. The [~~Director~~]director may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last 30 days of any [~~such~~]extension the [~~Director~~]director shall draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in Section R315-261-143 and [~~obtain~~]get written approval of [~~such~~]the assurance from the [~~Director~~]director.

(10) The [~~Director~~]director shall return the letter of credit to the issuing institution for termination [~~when~~]if:

(i) [~~A~~]an owner or operator substitutes alternate financial assurance as specified in Section R315-261-143; or

(ii) [~~T~~]the [~~Director~~]director releases the owner or operator from the requirements of Section R315-261-143 in accordance with Subsection R315-261-143(i).

(d) Insurance.

(1) An owner or operator may satisfy the requirements of Section R315-261-143 by [~~obtaining~~]getting insurance [~~which~~]that conforms to the requirements of Subsection R315-261-143(d) and submitting a certificate of [~~such~~]insurance to the [~~Director~~]director. At a minimum, the insurer shall be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in Utah.

(2) The wording of the certificate of insurance shall be identical to the wording specified in Subsection R315-261-151(d).

(3) The insurance policy shall be issued for a face amount at least equal to the current cost estimate, except as provided in [~~s~~]Subsection R315-261-143(f). The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability shall be lowered by the amount of the payments.

(4) The insurance policy shall guarantee that funds shall be available when[~~ever~~] needed to pay the cost of removal of [~~all~~]any hazardous secondary materials from the unit, to pay the cost of decontamination of the unit, to pay the costs of the performance of activities required under Sections R315-264-110 through R315-264-120 or [~~40 CFR~~]R315-265[~~.~~]-110 through R315-265-121, [~~which is adopted by reference;~~]as applicable, for the facilities covered by this policy. The policy shall also guarantee that once funds are needed, the insurer shall be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the [~~Director~~]director, to [~~such~~]the party or parties as the [~~Director~~]director specifies.

(5) After beginning partial or final closure under Rule[~~s~~] R315-264 or R315-265, as applicable, an owner or operator or any other authorized person may request reimbursements for closure expenditures by submitting itemized bills to the [~~Director~~]director. The owner or operator may request reimbursements only if the remaining value of the policy is [~~sufficient~~]enough to cover the maximum costs of closing the facility over its remaining operating life. Within 60 days after receiving bills for closure activities, the [~~Director~~]director shall instruct the insurer to make reimbursements in [~~such~~]the amounts [~~as~~]that the [~~Director~~]director specifies in writing if the [~~Director~~]director determines that the expenditures are in accordance with the approved plan or otherwise justified. If the [~~Director~~]director has reason to believe that the maximum cost over the remaining life of the facility will be significantly greater than the face amount of the policy, [~~he~~]the director may withhold reimbursement of [~~such~~]any amounts [~~as~~]that [~~he~~]the director considers [~~deems~~]prudent until [~~he~~]the director determines, in accordance with Subsection R315-261-143(h), that the owner or operator is no longer required to maintain financial assurance for the particular facility. If the [~~Director~~]director does not instruct the insurer to make [~~such~~]the reimbursements, [~~he~~]the director shall provide to the owner or operator a detailed written statement of reasons.

(6) The owner or operator shall maintain the policy in [~~full force and~~]effect until the [~~Director~~]director consents to termination of the policy by the owner or operator as specified in Subsection R315-261-143(i)(10). Failure to pay the premium, without substitution of alternate financial assurance as specified in Section R315-261-143, shall constitute a significant violation of [~~these regulations~~]Section R315-261-143 warranting [~~such~~]a remedy [~~as~~]that the [~~Director~~]director considers [~~deems~~]necessary. The[~~Such~~] violation shall be [~~deemed~~]considered to begin upon receipt by the [~~Director~~]director of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.

(7) Each policy shall contain a provision allowing assignment of the policy to a successor owner or operator. The[~~Such~~] assignment may be conditional upon consent of the insurer, provided [~~such~~]the consent is not unreasonably refused.

(8) The policy shall provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy shall, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the [~~Director~~]director. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the [~~Director~~]director and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy shall remain in [~~full force and~~]effect [~~in the event that~~]if on or before the date of expiration:

(i) [~~T~~]the [~~Director~~]director considers [~~deems~~]the facility abandoned; or

(ii) [~~C~~]conditional exclusion or interim status is lost, terminated, or revoked; or

(iii) [~~C~~]closure is ordered by the [~~Director~~]director or a U.S. district court or other court of competent jurisdiction; or

(iv) [~~T~~]the owner or operator is named as debtor in a voluntary or involuntary proceeding under Title 11, [~~(~~]Bankruptcy[~~)~~], U.S. Code; or

(v) [~~T~~]the premium due is paid.

(9) [~~Whenever~~]If the current cost estimate increases to an amount greater than the face amount of the policy, the owner or operator, within 60 days after the increase, shall either cause the face amount to be increased to an amount at least equal to the current cost estimate and submit evidence of [~~such~~]the increase to the [~~Director~~]director, or [~~obtain~~]get other financial assurance as specified in Section R315-261-143 to cover the increase. If[~~Whenever~~] the current cost estimate decreases, the face amount may be reduced to the amount of the current cost estimate following written approval by the [~~Director~~]director.

(10) The [~~Director~~]director shall give written consent to the owner or operator that [~~he~~]the owner or operator may terminate the insurance policy [~~when~~]if:

(i) [~~A~~]an owner or operator substitutes alternate financial assurance as specified in Section R315-261-143; or

(ii) [~~T~~]the [~~Director~~]director releases the owner or operator from the requirements of Section R315-261-143 in accordance with Subsection R315-261-143(i).

(e) Financial test and corporate guarantee.

(1) An owner or operator may satisfy the requirements of Section R315-261-143 by demonstrating that[~~-he~~] the owner or operator passes a financial test as specified in Subsection R315-261-143(e). To pass this test the owner or operator shall meet the criteria of either Subsection[~~s~~] R315-261-143(e)(1)(i) or R315-261-143(e)(1)(ii):

(i) The owner or operator shall have:

(A) [~~T~~]two of the following three ratios: A ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

(B) [~~N~~]net working capital and tangible net worth each at least six times the sum of the current cost estimates and the current plugging and abandonment cost estimates; and

(C) [~~T~~]tangible net worth of at least $10 million; and

(D) [~~A~~]assets located in the United States amounting to at least 90% [~~percent~~]of total assets or at least six times the sum of the current cost estimates and the current plugging and abandonment cost estimates.

(ii) The owner or operator shall have:

(A) [~~A~~]a current rating for [~~his~~]the owner or operator's most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and

(B) [~~T~~]tangible net worth at least six times the sum of the current cost estimates and the current plugging and abandonment cost estimates; and

(C) [~~T~~]tangible net worth of at least $10 million; and

(D) [~~A~~]assets located in the United States amounting to at least 90% [~~percent~~]of total assets or at least six times the sum of the current cost estimates and the current plugging and abandonment cost estimates.

(2) The phrase "current cost estimates" as used in Subsection R315-261-143(e)(1) refers to the cost estimates required to be shown in paragraphs 1-4 of the letter from the owner's or operator's chief financial officer, Subsection R315-261-151(e). The phrase "current plugging and abandonment cost estimates" as used in Subsection R315-261-143(e)(1) refers to the cost estimates required to be shown in paragraphs 1-4 of the letter from the owner's or operator's chief financial officer, 40 CFR 144.70(f).

(3) To demonstrate that [~~he~~]the owner or operator meets this test, the owner or operator shall submit the[~~-following~~] items required by Subsections R315-261-143(e)(3)(i) through R315-261-143(e)(3)(iii) to the [~~Director~~]director:

(i) A letter signed by the owner's or operator's chief financial officer and worded as specified in Subsection R315-261-151(e); and

(ii) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

(iii) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the owner or operator satisfies Subsection R315-261-143(e)(1)(i) that are different from the data in the audited financial statements referred to in Subsection R315-261-143(e)(3)(ii) or any other audited financial statement or data filed with the SEC, then a special report from the owner's or operator's independent certified public accountant to the owner or operator is required. The special report shall be based upon an agreed upon procedures engagement in accordance with professional auditing standards and shall describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in [~~such~~]the financial statements, the findings of the comparison, and the reasons for any differences.

(4) The owner or operator may [~~obtain~~]get an extension of the time allowed for submission of the documents specified in Subsection R315-261-143(e)(3) if the fiscal year of the owner or operator ends during the 90 days [~~prior to~~]before the effective date of [~~these regulations~~]Rule R315-261 and if the year-end financial statements for that fiscal year shall be audited by an independent certified public accountant. The extension shall end no later than 90 days after the end of the owner's or operator's fiscal year. To [~~obtain~~]get the extension, the owner's or operator's chief financial officer shall send, by the effective date of [~~these regulations~~]Rule R315-261, a letter to the [~~Director~~]director. This letter from the chief financial officer shall:

(i) [~~R~~]request the extension;

(ii) [~~C~~]certify that [~~he~~]the chief financial officer has grounds to believe that the owner or operator meets the criteria of the financial test;

(iii) [~~S~~]specify for each facility to be covered by the test the EPA Identification Number, if any are issued; name[~~;~~], address[~~;~~], and current cost estimates to be covered by the test;

(iv) [~~S~~]specify the date ending the owner's or operator's last complete fiscal year before the effective date of Sections R315-261-140 through R315-261-143 and R315-261-147 through R315-261-151;

(v) [~~S~~]specify the date, no later than 90 days after the end of [~~such~~]the fiscal year, when [~~he~~]the chief financial officer shall submit the documents specified in Subsection R315-261-143[~~-~~](e)(3); and

(vi) [~~C~~]certify that the year-end financial statements of the owner or operator for [~~such~~]the fiscal year shall be audited by an independent certified public accountant.

(5) After the initial submission of items specified in Subsection R315-261-143(e)(3), the owner or operator shall send updated information to the [~~Director~~]director within 90 days after the close of each succeeding fiscal year. This information shall consist of [~~all~~]the three items specified in Subsection R315-261-143(e)(3).

(6) If the owner or operator no longer meets the requirements of Subsection R315-261-143(e)(1), [~~he~~]the owner or operator shall send notice to the [~~Director~~]director of intent to establish alternate financial assurance as specified in Section R315-261-143. The notice shall be sent by certified mail within 90 days after the end of the fiscal year [~~for which~~]that the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator shall provide the alternate financial assurance within 120 days after the end of [~~such~~]the fiscal year.

(7) The [~~Director~~]director may, based on a reasonable belief that the owner or operator may no longer meet the requirements of Subsection R315-261-143(e)(1), require reports of financial condition at any time from the owner or operator in addition to those specified in Subsection R315-261-143(e)(3). If the [~~Director~~]director finds, on the basis of [~~such~~]the reports or other information, that the owner or operator no longer meets the requirements of Subsection R315-261-143(e)(1), the owner or operator shall provide alternate financial assurance as specified in Section R315-261-143 within 30 days after notification of such a finding.

(8) The [~~Director~~]director may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in [~~his~~]their report on examination of the owner's or operator's financial statements, see Subsection R315-261-143(e)(3)(ii). An adverse opinion or a disclaimer of opinion shall be cause for disallowance. The [~~Director~~]director shall evaluate other qualifications on an individual basis. The owner or operator shall provide alternate financial assurance as specified in Section R315-261-143 within 30 days after notification of the disallowance.

(9) The owner or operator is no longer required to submit the items specified in Subsection R315-261-143(e)(3) [~~when~~]if:

(i) [~~A~~]an owner or operator substitutes alternate financial assurance as specified in Section R315-261-143; or

(ii) [~~T~~]the [~~Director~~]director releases the owner or operator from the requirements of Section R315-261-143 in accordance with Subsection R315-261-143(i).

(10) An owner or operator may meet the requirements of Section R315-261-143 by [~~obtaining~~]getting a written guarantee. The guarantor shall be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a ["]substantial business relationship["] with the owner or operator. The guarantor shall meet the requirements for owners or operators in Subsections R315-261-143(e)(1) through R315-261-143(e)(8) and shall comply with the terms of the guarantee. The wording of the guarantee shall be identical to the wording specified in Subsection R315-261-151(g)(1). A certified copy of the guarantee shall accompany the items sent to the [~~Director~~]director as specified in Subsection R315-261-143(e)(3). One of these items shall be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter shall describe the value received in consideration of the guarantee. If the guarantor is a firm with a ["]substantial business relationship["] with the owner or operator, this letter shall describe this ["]substantial business relationship["] and the value received in consideration of the guarantee. The terms of the guarantee shall provide that:

(i) Following a determination by the [~~Director~~]director that the hazardous secondary materials at the owner or operator's facility covered by this guarantee do not meet the conditions of the exclusion under Subsection R315-261-4(a)(24), the guarantor shall dispose of any hazardous secondary material as hazardous waste and close the facility in accordance with closure requirements found in Rule[~~s~~] R315-264 or R315-265, as applicable, or establish a trust fund as specified in Subsection R315-261-143(a) in the name of the owner or operator in the amount of the current cost estimate.

(ii) The corporate guarantee shall remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the [~~Director~~]director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the [~~Director~~]director, as evidenced by the return receipts.

(iii) If the owner or operator fails to provide alternate financial assurance as specified in Section R315-261-143 and [~~obtain~~]get the written approval of [~~such~~]the alternate assurance from the [~~Director~~]director within 90 days after receipt by both the owner or operator and the [~~Director~~]director of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor shall provide [~~such~~]the alternate financial assurance in the name of the owner or operator.

(f) Use of multiple financial mechanisms. An owner or operator may satisfy the requirements of Section R315-261-143 by establishing more than one financial mechanism per facility. These mechanisms are limited to trust funds, surety bonds, letters of credit, and insurance. The mechanisms shall be as specified in Subsections R315-261-143(a) through R315-261-143(d), except that it is the combination of mechanisms, rather than the single mechanism, which shall provide financial assurance for an amount at least equal to the current cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, [~~he~~]the owner or operator may use the trust fund as the standby trust fund for the other mechanisms. A single standby trust fund may be established for two or more mechanisms. The [~~Director~~]director may use any or all [~~of~~]the mechanisms to provide for the facility.

(g) Use of a financial mechanism for multiple facilities. An owner or operator may use a financial assurance mechanism specified in Section R315-261-143 to meet the requirements of Section R315-261-143 for more than one facility. Evidence of financial assurance submitted to the [~~Director~~]director shall include a list showing, for each facility, the EPA Identification Number, if any issued; name[~~:~~], address[~~:~~], and the amount of funds assured by the mechanism. In directing funds available through the mechanism for any of the facilities

covered by the mechanism, the [~~Director~~]director may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

(h) Removal and Decontamination Plan for Release.

(1) An owner or operator of a reclamation facility or an intermediate facility who wishes to be released from [~~his~~]the owner or operator's financial assurance obligations under Subsection R315-261-4(a)(24)(vi)(F) shall submit a plan for removing [~~all~~]the hazardous secondary material residues to the [~~Director~~]director at least 180 days [~~prior to~~]before the date [~~on which~~]that [~~he~~]the owner or operator expects to [~~cease to operate~~]stop operating under the exclusion.

(2) The plan shall include, at least:

(A) [~~F~~]for each hazardous secondary materials storage unit subject to financial assurance requirements under Subsection R315-261-4(a)(24)(vi)(F), a description of how [~~all~~]the excluded hazardous secondary materials shall be recycled or sent for recycling, and how [~~all~~]the residues, contaminated containment systems, liners,[~~, etc.~~] contaminated soils; subsoils; structures; and equipment shall be removed or decontaminated as necessary to protect human health and the environment[~~.~~]; and

(B) [~~A~~]a detailed description of the steps necessary to remove or decontaminate [~~all~~]the hazardous secondary material residues and contaminated containment system components, equipment, structures, and soils including[~~, but not limited to,~~] procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination necessary to protect human health and the environment; and

(C) [~~A~~]a detailed description of any other activities necessary to protect human health and the environment during this timeframe, including[~~, but not limited to,~~] leachate collection, run-on and run-off control[~~, etc~~]; and

(D) [~~A~~]a schedule for conducting the activities described [~~which~~]that, at a minimum, includes the total time required to remove [~~all~~]the excluded hazardous secondary materials for recycling and decontaminate [~~all~~]the units subject to financial assurance under Subsection R315-261-4(a)(24)(vi)(F) and the time required for intervening activities [~~which~~]that will allow tracking of the progress of decontamination.

(3) The [~~Director~~]director shall provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the plan and request modifications to the plan no later than 30 days from the date of the notice. [~~He~~] The director shall also, in response to a request or at [~~his~~]the director's discretion, hold a public hearing [~~whenever~~]if such a hearing might clarify one or more issues concerning the plan. The [~~Director~~]director shall give public notice of the hearing at least 30 days before it occurs. Public notice of the hearing may be given [~~at the same time as~~]when notice of the opportunity for the public to submit written comments is given, and the two notices may be combined. The [~~Director~~]director shall approve, modify, or disapprove the plan within 90 days of its receipt. If the [~~Director~~]director does not approve the plan, [~~he~~]the director shall provide the owner or operator with a detailed written statement of reasons for the refusal and the owner or operator shall modify the plan or submit a new plan for approval within 30 days after receiving [~~such~~]the written statement. The [~~Director~~]director shall approve or modify this plan in writing within 60 days. If the [~~Director~~]director modifies the plan, this modified plan becomes the approved plan. The [~~Director~~]director shall assure that the approved plan is consistent with Subsection R315-261-143(h). A copy of the modified plan with a detailed statement of reasons for the modifications shall be mailed to the owner or operator.

(4) Within 60 days of completion of the activities described for each hazardous secondary materials management unit, the owner or operator shall submit to the [~~Director~~]director, by registered mail, a certification that [~~all~~]the hazardous secondary materials have been removed from the unit and the unit has been decontaminated in accordance with the specifications in the approved plan. The certification shall be signed by the owner or operator and by a qualified Professional Engineer. Documentation supporting the Professional Engineer's certification shall be furnished to the [~~Director~~]director, upon request, until [~~he~~]the director releases the owner or operator from the financial assurance requirements for Subsection R315-261-4(a)(24)(vi)(F).

(i) Release of the owner or operator from the requirements of Section R315-261-143. Within 60 days after receiving certifications from the owner or operator and a qualified Professional Engineer that [~~all~~]the hazardous secondary materials have been removed from the facility or a unit at the facility and the facility or a unit has been decontaminated in accordance with the approved plan as required in Subsection R315-261-143(h), the [~~Director~~]director shall notify the owner or operator in writing that [~~he~~]the owner or operator is no longer required under Subsection R315-261-4(a)(24)(vi)(F) to maintain financial assurance for that facility or a unit at the facility, unless the [~~Director~~]director has reason to believe that [~~all~~]the hazardous secondary materials have not been removed from the facility or unit at a facility or that the facility or unit has not been decontaminated in accordance with the approved plan. The [~~Director~~]director shall provide the owner or operator a detailed written statement of any [~~such~~]reason to believe that [~~all~~]the hazardous secondary materials have not been removed from the unit or that the unit has not been decontaminated in accordance with the approved plan.

R315-261-147. Financial Requirements for Management of Excluded Hazardous Secondary Materials - Liability Requirements.

(a) Coverage for sudden accidental occurrences. An owner or operator of a hazardous secondary material reclamation facility or an intermediate facility subject to financial assurance requirements under Subsection R315-261-4(a)(24)(vi)(F), or a group of [~~such~~]these facilities, shall demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator shall have and maintain liability coverage for sudden accidental occurrences in the amount of at least $1 million per occurrence with an annual aggregate of at least $2 million, exclusive of legal defense costs. This liability coverage may be demonstrated as specified in Subsection[~~s~~] R315-261-147(a)(1), R315-261-147(a)(2), R315-261-146(a)(3), R315-261-147(a)(4), R315-261-147(a)(5), or R315-261-147(a)(6):

(1) An owner or operator may demonstrate the required liability coverage by having liability insurance as specified in Subsection R315-261-147(a).

(i) Each insurance policy shall be amended by attachment of the Hazardous Secondary Material Facility Liability Endorsement, or evidenced by a Certificate of Liability Insurance. The wording of the endorsement shall be identical to the wording specified in Subsection R315-261-151(h). The wording of the certificate of insurance shall be identical to the wording specified in Subsection R315-261-151(i). The

owner or operator shall submit a signed duplicate original of the endorsement or the certificate of insurance to the [~~Director~~]director. If requested by a [~~Director~~]director, the owner or operator shall provide a signed duplicate original of the insurance policy.

(ii) Each insurance policy shall be issued by an insurer [~~which~~]that, at a minimum, is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer in Utah.

(2) An owner or operator may meet the requirements of Section R315-261-147 by passing a financial test or using the guarantee for liability coverage as specified in Subsections R315-261-147(f) and R315-216-147(g).

(3) An owner or operator may meet the requirements of [~~Subs~~]Section R315-261-147 by [~~obtaining~~]getting a letter of credit for liability coverage as specified in Subsection R315-261-147(h).

(4) An owner or operator may meet the requirements of S[~~ubs~~]ection R315-261-147 by [~~obtaining~~]getting a surety bond for liability coverage as specified in Subsection R315-261-147(i).

(5) An owner or operator may meet the requirements of S[~~ubs~~]ection R315-261-147 by [~~obtaining~~]getting a trust fund for liability coverage as specified in Subsection R315-261-147(j).

(6) An owner or operator may demonstrate the required liability coverage through the use of combinations of insurance, financial test, guarantee, letter of credit, surety bond, and trust fund, except that the owner or operator may not combine a financial test covering part of the liability coverage requirement with a guarantee unless the financial statement of the owner or operator is not consolidated with the financial statement of the guarantor. The amounts of coverage demonstrated shall total at least the minimum amounts required by [~~Subs~~]Section R315-261-147. If the owner or operator demonstrates the required coverage through the use of a combination of financial assurances under Subsection R315-261-147(a)(6)[~~this paragraph~~], the owner or operator shall specify at least one [~~such~~]assurance as ["]primary["] coverage and shall specify other assurance as ["]excess["] coverage.

(7) An owner or operator shall notify the [~~Director~~]director in writing within 30 days [~~whenever~~]if:

(i) [~~A~~]a claim results in a reduction in the amount of financial assurance for liability coverage provided by a financial instrument authorized in Subsections R315-261-147(a)(1) through R315-261-147(a)(6); or

(ii) [~~A~~]a Certification of Valid Claim for bodily injury or property damages caused by a sudden or non[~~-~~]sudden accidental occurrence arising from the operation of a hazardous secondary material reclamation facility or intermediate facility is entered between the owner or operator and third-party claimant for liability coverage under Subsections R315-261-147(a)(1) through R315-261-147(a)(6); or

(iii) [~~A~~]a final court order establishing a judgment for bodily injury or property damage caused by a sudden or non[~~-~~]sudden accidental occurrence arising from the operation of a hazardous secondary material reclamation facility or intermediate facility is issued against the owner or operator or an instrument that is providing financial assurance for liability coverage under Subsections R315-261-147(a)(1) through R315-261-147(a)(6).

(b) Coverage for nonsudden accidental occurrences. An owner or operator of a hazardous secondary material reclamation facility or intermediate facility with land-based units, as defined in Section R315-260-10, which are used to manage hazardous secondary materials excluded under Subsection R315-261-4(a)(24) or a group of [~~such~~]these facilities, shall demonstrate financial responsibility for bodily injury and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator shall have and maintain liability coverage for nonsudden accidental occurrences in the amount of at least $3 million per occurrence with an annual aggregate of at least $6 million, exclusive of legal defense costs. An owner or operator who shall meet the requirements of Section R315-261-147 may combine the required per-occurrence coverage levels for sudden and nonsudden accidental occurrences into a single per-occurrence level, and combine the required annual aggregate coverage levels for sudden and nonsudden accidental occurrences into a single annual aggregate level. Owners or operators who combine coverage levels for sudden and nonsudden accidental occurrences shall maintain liability coverage in the amount of at least $4 million per occurrence and $8 million annual aggregate. This liability coverage may be demonstrated as specified in Subsection[~~s~~] R315-261-147(b)(1), R315-261-147(b)(2), R315-261-147(b)(3), R315-261-147(b)(4), R315-261-147(b)(5), or R315-261-147(b)(6):

(1) An owner or operator may demonstrate the required liability coverage by having liability insurance as specified in S[~~ubs~~]ection R315-261-147.

(i) Each insurance policy shall be amended by attachment of the Hazardous Secondary Material Facility Liability Endorsement or evidenced by a Certificate of Liability Insurance. The wording of the endorsement shall be identical to the wording specified in Subsection R315-261-151(h). The wording of the certificate of insurance shall be identical to the wording specified in Subsection R315-261-151(i). The owner or operator shall submit a signed duplicate original of the endorsement or the certificate of insurance to the [~~Director~~]director.

(ii) Each insurance policy shall be issued by an insurer [~~which~~]that, at a minimum, is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer in Utah.

(2) An owner or operator may meet the requirements of Section R315-261-147 by passing a financial test or using the guarantee for liability coverage as specified in Subsections R315-261-147(f) and R315-261-147(g).

(3) An owner or operator may meet the requirements of S[~~ubs~~]ection R315-261-147 by [~~obtaining~~]getting a letter of credit for liability coverage as specified in Subsection R315-261-147(h).

(4) An owner or operator may meet the requirements of Section R315-261-147 by [~~obtaining~~]getting a surety bond for liability coverage as specified in Subsection R315-261-147(i).

(5) An owner or operator may meet the requirements of S[~~ubs~~]ection R315-261-147 by [~~obtaining~~]getting a trust fund for liability coverage as specified in Subsection R315-261-147(j).

(6) An owner or operator may demonstrate the required liability coverage through the use of combinations of insurance, financial test, guarantee, letter of credit, surety bond, and trust fund, except that the owner or operator may not combine a financial test covering part of the liability coverage requirement with a guarantee unless the financial statement of the owner or operator is not consolidated with the financial statement of the guarantor. The amounts of coverage demonstrated shall total at least the minimum amounts required by Section R315-261-147. If the owner or operator demonstrates the required coverage through the use of a combination of financial assurances under Subsection

R315-261-147(b), the owner or operator shall specify at least one [~~such~~]assurance as [~~"~~]primary[~~"~~] coverage and shall specify other assurance as [~~"~~]excess[~~"~~] coverage.

(7) An owner or operator shall notify the [~~Director~~]director in writing within 30 days [~~whenever~~]if:

(i) [~~A~~]a claim results in a reduction in the amount of financial assurance for liability coverage provided by a financial instrument authorized in Subsections R315-261-147(b)(1) through R315-261-147(b)(6); or

(ii) [~~A~~]a Certification of Valid Claim for bodily injury or property damages caused by a sudden or non-sudden accidental occurrence arising from the operation of a hazardous secondary material treatment [~~and/~~]or storage facility or treatment and storage facility is entered between the owner or operator and third-party claimant for liability coverage under Subsections R315-261-147(b)(1) through R315-261-147(b)(6); or

(iii) [~~A~~]a final court order establishing a judgment for bodily injury or property damage caused by a sudden or non-sudden accidental occurrence arising from the operation of a hazardous secondary material treatment [~~and/~~]or storage facility or treatment and storage facility is issued against the owner or operator or an instrument that is providing financial assurance for liability coverage under Subsections R315-261-147(b)(1) through R315-261-147(b)(6).

(c) Request for alternative. If an owner or operator can demonstrate to the satisfaction of the [~~Director~~]director that the levels of financial responsibility required by Subsection R315-261-147(a) or R315-261-147(b) are not consistent with the degree and duration of risk associated with treatment [~~and/~~]or storage, or both, at the facility or group of facilities, the owner or operator may [~~obtain~~]get an alternative financial liability requirement from the [~~Director~~]director. The request for an alternative financial liability requirement shall be submitted in writing to the [~~Director~~]director. If granted, the alternative financial liability requirement shall take the form of an adjusted level of required liability coverage, [~~such~~]the level to be based on the [~~Director's~~]director's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. The [~~Director~~]director may require an owner or operator who requests an alternative financial liability requirement to provide [~~such~~]the technical and engineering information [~~as~~]that is [~~deemed~~]considered necessary by the [~~Director~~]director to determine a level of financial responsibility other than that required by Subsection R315-261-147(a) or R315-261-147(b).

(d) Adjustments by the [~~Director~~]director. If the [~~Director~~]director determines that the levels of financial responsibility required by Subsection[~~s~~] R315-261-147(a) or R315-261-147(b) are not consistent with the degree and duration of risk associated with treatment [~~and/~~]or storage, or both, at the facility or group of facilities, the [~~Director~~]director may adjust the level of financial responsibility required under Subsection[~~s~~] R315-261-147(a) or R315-261-147(b) as may be necessary to protect human health and the environment. This adjusted level shall be based on the [~~Director's~~]director's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the [~~Director~~]director determines that there is a significant risk to human health and the environment from nonsudden accidental occurrences resulting from the operations of a facility that is not a surface impoundment, pile, or land treatment facility, [~~he~~]the director may require that an owner or operator of the facility comply with Subsection R315-261-147(b). An owner or operator shall furnish to the [~~Director~~]director, within a reasonable time, any information [~~which~~]that the [~~Director~~]director requests to determine whether cause exists for [~~such~~]adjustments of level or type of coverage.

(e) Period of coverage. Within 60 days after receiving certifications from the owner or operator and a qualified Professional Engineer that [~~all~~]the hazardous secondary materials have been removed from the facility or a unit at the facility and the facility or a unit has been decontaminated in accordance with the approved plan per Subsection R315-261-143(h), the [~~Director~~]director shall notify the owner or operator in writing that [~~he~~]the owner or operator is no longer required under Subsection R315-261-4(a)(24)(vi)(F) to maintain liability coverage for that facility or a unit at the facility, unless the [~~Director~~]director has reason to believe that that [~~all~~]the hazardous secondary materials have not been removed from the facility or unit at a facility or that the facility or unit has not been decontaminated in accordance with the approved plan.

(f) Financial test for liability coverage.

(1) An owner or operator may satisfy the requirements of Section R315-261-147 by demonstrating that [~~he~~]the owner or operator passes a financial test as specified in this paragraph. To pass this test the owner or operator shall meet the criteria of Subsection[~~s~~] R315-261-147(f)(1)(i) or R315-261-147(f)(1)(ii):

(i) The owner or operator shall have:

(A) [~~N~~]net working capital and tangible net worth each at least six times the amount of liability coverage to be demonstrated by this test; and

(B) [~~T~~]tangible net worth of at least $10 million; and

(C) [~~A~~]assets in the United States amounting to either:

(I) [~~A~~]at least 90% [~~percent~~]of [~~his~~]the owner or operator's total assets; or

(II) at least six times the amount of liability coverage to be demonstrated by this test.

(ii) The owner or operator shall have:

(A) [~~A~~]a current rating for [~~his~~]the owner or operator's most recent bond issuance of AAA, AA, A, or BBB as issued by Standard and Poor's, or Aaa, Aa, A, or Baa as issued by Moody's; and

(B) [~~T~~]tangible net worth of at least $10 million; and

(C) [~~T~~]tangible net worth at least six times the amount of liability coverage to be demonstrated by this test; and

(D) [~~A~~]assets in the United States amounting to either:

(I) [~~A~~]at least 90% [~~percent~~]of [~~his~~]the owner or operator's total assets; or

(II) at least six times the amount of liability coverage to be demonstrated by this test.

(2) The phrase "amount of liability coverage" as used in Subsection R315-261-147(f)(1) refers to the annual aggregate amounts [~~for which~~]that coverage is required for under Subsections R315-261-147(a) and R315-261-147(b) and the annual aggregate amounts [~~for which~~]that coverage is required for under Subsections R315-264-147(a) and R315-264-147(b) and R315-265-147(a) and R315-265-147(b)[~~40 CFR 265.147(a) and(b), which are adopted by reference,~~].

(3) To demonstrate that [~~he~~]the owner or operator meets this test, the owner or operator shall submit the [~~following~~]three items listed in Subsections R315-261-147(f)(3)(i) through R315-261-147(f)(3)(iii) to the [~~Director~~]director:

(i) A letter signed by the owner's or operator's chief financial officer and worded as specified in Subsection R315-261-151(f). If an owner or operator is using the financial test to demonstrate both assurance as specified by Subsection R315-261-143(e), and liability coverage, [~~he~~]the owner or operator shall submit the letter specified in Subsection R315-261-151(f) to cover both forms of financial responsibility[~~:~~], a separate letter as specified in Subsection R315-261-151(e) is not required.

(ii) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year.

(iii) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the owner or operator satisfies Subsection R315-261-147(f)(1)(i) that are different from the data in the audited financial statements referred to in Subsection R315-261-147(f)(3)(ii) or any other audited financial statement or data filed with the SEC, then a special report from the owner's or operator's independent certified public accountant to the owner or operator is required. The special report shall be based upon an agreed upon procedures engagement in accordance with professional auditing standards and shall describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in [~~such~~]the financial statements, the findings of the comparison, and the reasons for any difference.

(4) The owner or operator may [~~obtain~~]get a one-time extension of the time allowed for submission of the documents specified in Subsection R315-261-147(f)(3) if the fiscal year of the owner or operator ends during the 90 days [~~prior to~~]before the effective date of [~~these regulations~~]Rule R315-261 and if the year-end financial statements for that fiscal year shall be audited by an independent certified public accountant. The extension shall end no later than 90 days after the end of the owner's or operator's fiscal year. To [~~obtain~~]get the extension, the owner's or operator's chief financial officer shall send, by the effective date of [~~these regulations~~]Rule R315-261, a letter to the [~~Director~~]director. This letter from the chief financial officer shall:

(i) [~~R~~]request the extension;

(ii) [~~C~~]certify that [~~he~~]the chief financial officer has grounds to believe that the owner or operator meets the criteria of the financial test;

(iii) [~~S~~]specify for each facility to be covered by the test the EPA Identification Number, name, address, the amount of liability coverage and, [~~when~~]if applicable, current closure and post-closure cost estimates to be covered by the test;

(iv) [~~S~~]specify the date ending the owner's or operator's last complete fiscal year before the effective date of [~~these regulations~~]Rule R315-261;

(v) [~~S~~]specify the date, no later than 90 days after the end of [~~such~~]the fiscal year, when [~~he~~]the chief financial officer will submit the documents specified in Subsection R315-261-147(f)(3); and

(vi) [~~C~~]certify that the year-end financial statements of the owner or operator for [~~such~~]the fiscal year will be audited by an independent certified public accountant.

(5) After the initial submission of items specified in Subsection R315-261-147(f)(3), the owner or operator shall send updated information to the [~~Director~~]director within 90 days after the close of each succeeding fiscal year. This information shall consist of [~~all~~]the three items specified in Subsection R315-261-147(f)(3).

(6) If the owner or operator no longer meets the requirements of Subsection R315-261-147(f)(1), [~~he~~]the owner or operator shall [~~obtain~~]get insurance, a letter of credit, a surety bond, a trust fund, or a guarantee for the entire amount of required liability coverage as specified in Section R315-261-147. Evidence of liability coverage shall be submitted to the [~~Director~~]director within 90 days after the end of the fiscal year [~~for which~~]that the year-end financial data show that the owner or operator no longer meets the test requirements.

(7) The [~~Director~~]director may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in [~~his~~]their report on examination of the owner's or operator's financial statements, see Subsection R315-261-147(f)(3)(ii). An adverse opinion or a disclaimer of opinion shall be cause for disallowance. The [~~Director~~]director shall evaluate other qualifications on an individual basis. The owner or operator shall provide evidence of insurance for the entire amount of required liability coverage as specified in Section R315-261-147 within 30 days after notification of disallowance.

(g) Guarantee for liability coverage.

(1) Subject to Subsection R315-261-147(g)(2), an owner or operator may meet the requirements of Section R315-261-147 by [~~obtaining~~]getting a written guarantee, [~~hereinafter~~]referred to as ["]guarantee in Subsection R315-261-147(g).["] The guarantor shall be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a ["]substantial business relationship["] with the owner or operator. The guarantor shall meet the requirements for owners or operators in Subsections R315-261-147(f)(1) through R315-261-147(f)(6). The wording of the guarantee shall be identical to the wording specified in Subsection R315-261-151(g)(2). A certified copy of the guarantee shall accompany the items sent to the [~~Director~~]director as specified in Subsection R315-261-147(f)(3). One of these items shall be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, this letter shall describe the value received in consideration of the guarantee. If the guarantor is a firm with a ["]substantial business relationship["] with the owner or operator, this letter shall describe this ["]substantial business relationship["] and the value received in consideration of the guarantee.

(i) If the owner or operator fails to satisfy a judgment based on a determination of liability for bodily injury or property damage to third parties caused by sudden or nonsudden accidental occurrences, or both as the case may be, arising from the operation of facilities covered by this corporate guarantee, or fails to pay an amount agreed to in settlement of claims arising from or alleged to arise from [~~such~~]the injury or damage, the guarantor shall do so up to the limits of coverage.

(2)(i) In the case of corporations incorporated outside the United States, a guarantee may be used to satisfy the requirements of Section R315-261-147 only if the non-U.S. corporation has identified a registered agent for service of process in Utah.

(h) Letter of credit for liability coverage.

(1) An owner or operator may satisfy the requirements of Section R315-261-147 by [~~obtaining~~]getting an irrevocable standby letter of credit that conforms to the requirements of Subsection R315-261-147(h) and submits a copy of the letter of credit to the [~~Director~~]director.

(2) The financial institution issuing the letter of credit shall be an entity that has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a [~~F~~]federal or Utah agency.

(3) The wording of the letter of credit shall be identical to the wording specified in Subsection R315-261-151(j).

(4) An owner or operator who uses a letter of credit to satisfy the requirements of Section R315-261-147 may also establish a standby trust fund. Under the terms of such a letter of credit, [~~all~~]the amounts paid pursuant to a draft by the trustee of the standby trust shall be deposited by the issuing institution into the standby trust in accordance with instructions from the trustee. The trustee of the standby trust fund shall be an entity [~~which~~]that has the authority to act as a trustee and whose trust operations are regulated and examined by a [~~F~~]federal or Utah agency.

(5) The wording of the standby trust fund shall be identical to the wording specified in Subsection R315-261-151(m).

(i) Surety bond for liability coverage.

(1) An owner or operator may satisfy the requirements of Section R315-261-147 by [~~obtaining~~]getting a surety bond that conforms to the requirements of Subsection R315-261-147(i) and submitting a copy of the bond to the [~~Director~~]director.

(2) The surety company issuing the bond shall be among those listed as acceptable sureties on [~~F~~]federal bonds in the most recent Circular 570 of the U.S. Department of the Treasury.

(3) The wording of the surety bond shall be identical to the wording specified in Subsection R315-261-151(k).

(j) Trust fund for liability coverage.

(1) An owner or operator may satisfy the requirements of Section R315-261-147 by establishing a trust fund that conforms to the requirements of Subsection R315-261-147(j) and submitting an originally signed duplicate of the trust agreement to the [~~Director~~]director.

(2) The trustee shall be an entity [~~which~~]that has the authority to act as a trustee and whose trust operations are regulated and examined by a [~~F~~]federal or Utah agency.

(3) The trust fund for liability coverage shall be funded for the full amount of the liability coverage to be provided by the trust fund before it may be relied upon to satisfy the requirements of Section R315-261-147. If at any time after the trust fund is created the amount of funds in the trust fund is reduced below the full amount of the liability coverage to be provided, the owner or operator, by the anniversary date of the establishment of the Fund, shall either add [~~sufficient~~]enough funds to the trust fund to cause its value to equal the full amount of liability coverage to be provided, or [~~obtain~~]get other financial assurance as specified in Section R315-261-147 to cover the difference. For purposes of Subsection R315-261-147(j), "the full amount of the liability coverage to be provided" means the amount of coverage for sudden [~~and/~~]or nonsudden, or both, occurrences required to be provided by the owner or operator by Section R315-261-147, less the amount of financial assurance for liability coverage that is being provided by other financial assurance mechanisms being used to demonstrate financial assurance by the owner or operator.

(4) The wording of the trust fund shall be identical to the wording specified in Subsection R315-261-151(l).

R315-261-151. Financial Requirements for Management of Excluded Hazardous Secondary Materials -- Wording of the Instruments.

(a)(1) A trust agreement for a trust fund, as specified in Subsection R315-261-143(a) shall be worded as follows, except that instructions in parentheses are to be replaced with the relevant information and the parentheses deleted:

Trust Agreement

Trust Agreement, the "Agreement," entered into as of (date) by and between (name of the owner or operator), a (name of State) (insert "corporation," "partnership," "association," or "proprietorship"), the "Grantor," and (name of corporate trustee), (insert "incorporated in the State of ___-----" or "a national bank"), the "Trustee."

Whereas, the Utah Waste Management and Radiation Control Board of the State of Utah, (the "BOARD") has established certain [~~regulations~~]rules applicable to the Grantor, requiring that an owner or operator of a facility regulated under Rule[~~s~~] R315-264, or R315-265, or satisfying the conditions of the exclusion under Subsection R315-261-4(a)(24) shall provide assurance that funds shall be available if needed for care of the facility under Sections R315-264-110 through R315-264-120 or [~~40 CFR~~]R315-265[~~.~~]-110 through R315-265-121,[~~which are adopted by reference;~~] as applicable,

Whereas, the Grantor has elected to establish a trust to provide all or part of such financial assurance for the facilities identified herein,

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee,

Now, Therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

(a) The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.

(b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

(c) The term "BOARD", "Waste Management and Radiation Control Board" created pursuant to Utah Code [~~Annotated~~]Section 19-1-106.

(d) The term "DIRECTOR" means the Director, Division of Waste Management and Radiation Control his successors, designees, and any subsequent entity of [~~the State of~~]Utah upon whom the duties of regulation and enforcement of [~~regulations~~]rules governing hazardous waste.

Section 2. Identification of Facilities and Cost Estimates. This Agreement pertains to the facilities and cost estimates identified on attached Schedule A (on Schedule A, for each facility list the EPA Identification Number, if available; name; address; and the current cost estimates, or portions thereof; for which financial assurance is demonstrated by this Agreement).

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the Director in the event that the hazardous secondary materials of the grantor no longer meet the conditions of the exclusion under Subsection R315-261-4(a)(24). The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by Director.

Section 4. Payments from the Fund. The Trustee shall make payments from the Fund as the Director shall direct, in writing, to provide for the payment of the costs of the performance of activities required under Sections R315-264-110 through R315-264-120 or [~~40 CFR~~]R315-265[~~-~~]-110 through R315-265-121, which are adopted by reference, for the facilities covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the Director from the Fund for expenditures for such activities in such amounts as the beneficiary shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the Director specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

Section 5. Payments Comprising the Fund. Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

Section 6. Trustee Management. The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

(i) Securities or other obligations of the Grantor, or any other owner or operator of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held, unless they are securities or other obligations of the [~~F~~]federal or a [~~S~~]state government;

(ii) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the [~~F~~]federal or [~~S~~]state government; and

(iii) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depositary even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depositary with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the [~~F~~]federal or [~~S~~]state government; and

(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Annual Valuation. The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the Director a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to

the Trustee within 90 days after the statement has been furnished to the Grantor and the Director shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 12. Trustee Compensation. The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 13. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the Director, and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this [~~S~~]section shall be paid as provided in Section 9.

Section 14. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the Director to the Trustee shall be in writing, signed by the Director, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the Director hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or the Director, except as provided for herein.

Section 15. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the Director, or by the Trustee and the Director if the Grantor ceases to exist.

Section 16. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the Director, or by the Trustee and the [~~Direcotr~~]Director, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

Section 17. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the Director issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 18. Choice of Law. This Agreement shall be administered, construed, and enforced according to the laws of the State of (insert name of State).

Section 19. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness Whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written: The parties below certify that the wording of this Agreement is identical to the wording specified in Subsection R315-261-151(a)(1) as such [~~regulations~~]rules were constituted on the date first above written.

(Signature of Grantor)

(Title)

Attest:

(Title)

(Seal)

(Signature of Trustee)

Attest:

(Title)

(Seal)

(2) The following is an example of the certification of acknowledgment which shall accompany the trust agreement for a trust fund as specified in Subsection R315-261-143(a). [~~State of~~]Utah requirements may differ on the proper content of this acknowledgment.

State of County of On this (date), before me personally came (owner or operator) to me known, who, being by me duly sworn, did depose and say that she/he resides at (address), that she/he is (title) of (corporation), the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that she/he signed her/his name thereto by like order.

(Signature of Notary Public)

(b) A surety bond guaranteeing payment into a trust fund, as specified in Subsection R315-261-143(b), shall be worded as follows, except that instructions in parentheses are to be replaced with the relevant information and the parentheses deleted:

Financial Guarantee Bond

Date bond executed:

Effective date:
Principal: (legal name and business address of owner or operator)
Type of Organization: (insert "individual," "joint venture," "partnership," or "corporation")
State of incorporation:
Surety(ies): (name(s) and business address(es))
EPA and State Identification Numbers, name, address and amount(s) for each facility guaranteed by this bond:
Total penal sum of bond: $
Surety's bond number:

Know All Persons By These Presents, That we, the Principal and Surety(ies) are firmly bound to the Director of the Division of Waste [~~m~~]Management and Radiation Control of the State of Utah (hereinafter called the Director) in the event that the hazardous secondary materials at the reclamation or intermediate facility listed below no longer meet the conditions of the exclusion under Subsection R315-261-4(a)(24), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas said Principal is required, under the Utah Solid and Hazardous Waste Act as amended, to have a permit or interim status in order to own or operate each facility identified above, or to meet conditions under Subsection R315-261-4(a)(24)[~~,~~]; and

Whereas said Principal is required to provide financial assurance as a condition of permit or interim status or as a condition of an exclusion under Subsection R315-261-4(a)(24); and

Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

Now, Therefore, the conditions of the obligation are such that if the Principal shall faithfully, before the beginning of final closure of each facility identified above, fund the standby trust fund in the amount(s) identified above for the facility,

Or, if the Principal shall satisfy all the conditions established for exclusion of hazardous secondary materials from coverage as solid waste under Subsection R315-261-4(a)(24),

Or, if the Principal shall fund the standby trust fund in such amount(s) within 15 days after a final order to begin closure is issued by the Director or a U.S. district court or other court of competent jurisdiction,

Or, if the Principal shall provide alternate financial assurance, as specified in Sections R315-261-140 through R315-261-143 and R315-261-147 through R315-261-151, as applicable, and obtain the Director's written approval of such assurance, within 90 days after the date notice of cancellation is received by both the Principal and the Director from the Surety(ies), then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the Director that the Principal has failed to perform as guaranteed by this bond, the Surety(ies) shall place funds in the amount guaranteed for the facility(ies) into the standby trust fund as directed by the Director.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the Director, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by both the Principal and the Director, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the Director.

(The following paragraph is an optional rider that may be included but is not required.)

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond yearly so that it guarantees a new amount, provided that the penal sum does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without the written permission of the Director.

In Witness Whereof, the Principal and Surety(ies) have executed this Financial Guarantee Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in Subsection R315-261-151(b) as such [~~regulations~~]rules were constituted on the date this bond was executed.

Principal
(Signature(s))
(Name(s))
(Title(s))
(Corporate seal)Corporate Surety(ies)
(Name and address)
State of incorporation:Liability limit:
$(Signature(s))
(Name(s) and title(s))
(Corporate seal)

(For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.)

Bond premium: $

(c) A letter of credit, as specified in Subsection R315-261-143(c), shall be worded as follows, except that instructions in parentheses are to be replaced with the relevant information and the parentheses deleted:

Irrevocable Standby Letter of Credit

(Director name), Director,

Division of Waste Management and Radiation Control

195 North 1950 West

P.O Box 144880

Salt Lake City, Utah 84114-4880

Dear Director: We hereby establish our Irrevocable Standby Letter of Credit No.____ in your favor, in the event that the hazardous secondary materials at the covered reclamation or intermediary facility(ies) no longer meet the conditions of the exclusion under Subsection R315-261-4(a)(24), at the request and for the account of (owner's or operator's name and address) up to the aggregate amount of (in words) U.S. dollars $____, available upon presentation of

(1) your sight draft, bearing reference to this letter of credit No.__, and

(2) your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to [~~regulations~~]rules issued under authority of the Utah Solid and Hazardous Waste Act as amended."

This letter of credit is effective as of (date) and shall expire on (date at least 1 year later), but such expiration date shall be automatically extended for a period of (at least 1 year) on (date) and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify both you, the Director, and (owner's or operator's name) by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both you and (owner's or operator's name), as shown on the signed return receipts.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of (owner's or operator's name) in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in Subsection R315-261-151(c) as such [~~regulations~~]rules were constituted on the date shown immediately below.

(Signature(s) and title(s) of official(s) of issuing institution) (Date)

This credit is subject to (insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce," or "the Uniform Commercial Code").

(d) A certificate of insurance, as specified in Subsection R315-261-143(d), shall be worded as follows, except that instructions in parentheses are to be replaced with the relevant information and the parentheses deleted:

Certificate of Insurance

Name and Address of Insurer (herein called the "Insurer"):

Name and Address of Insured (herein called the "Insured"):

Facilities Covered: (List for each facility: The EPA and State Identification Numbers (if any issued), name, address, and the amount of insurance for all facilities covered, which shall total the face amount shown below.)

Face Amount:

Policy Number:

Effective Date:

The Insurer hereby certifies that it has issued to the Insured the policy of insurance identified above to provide financial assurance so that in accordance with applicable [~~regulations~~]rules all hazardous secondary materials can be removed from the facility or any unit at the facility and the facility or any unit at the facility can be decontaminated at the facilities identified above. The Insurer further warrants that such policy conforms in all respects with the requirements of Subsection R315-261-143(d) as applicable and as such [~~regulations~~]rules were constituted on the date shown immediately below. It is agreed that any provision of the policy inconsistent with such [~~regulations~~]rules is hereby amended to eliminate such inconsistency.

Whenever requested by the Director of the Division of Waste Management and Radiation Control, the Insurer agrees to furnish to the Director a duplicate original of the policy listed above, including all endorsements thereon.

I hereby certify that the wording of this certificate is identical to the wording specified in Subsection R315-261-151(d) such [~~regulations~~]rules were constituted on the date shown immediately below.

(Authorized signature for Insurer)

(Name of person signing)

(Title of person signing)

Signature of witness or notary:(Date)

(e) A letter from the chief financial officer, as specified in Subsection R315-261-143(e), shall be worded as follows, except that instructions in parentheses are to be replaced with the relevant information and the parentheses deleted:

Letter From Chief Financial Officer

Director

Division of Waste Management and Radiation Control

195 North 1950 West

P.O. Box 144880

Salt Lake City, UT 84114-4880

I am the chief financial officer of (name and address of firm). This letter is in support of this firm's use of the financial test to demonstrate financial assurance, as specified in Sections R315-261-140 through R315-261-143 and R315-261-147 through R315-261-151.

(Fill out the following nine paragraphs regarding facilities and associated cost estimates. If your firm has no facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include its EPA and [~~S~~]state Identification Numbers (if any issued), name, address, and current cost estimates.)

1. This firm is the owner or operator of the following facilities for which financial assurance is demonstrated through the financial test specified in Sections R315-261-140 through R315-261-143 and R315-261-147 through R315-261-151. The current cost estimates covered by the test are shown for each facility: ____.

2. This firm guarantees, through the guarantee specified in Sections R315-261-140 through R315-261-143 and R315-261-147 through R315-261-151, the following facilities owned or operated by the guaranteed party. The current cost estimates so guaranteed are shown for each facility: ____. The firm identified above is (insert one or more: (1) The direct or higher-tier parent corporation of the owner or operator; (2) owned by the same parent corporation as the parent corporation of the owner or operator, and receiving the following value in consideration of this guarantee____, or (3) engaged in the following substantial business relationship with the owner or operator ____, and receiving the following value in consideration of this guarantee____). (Attach a written description of the business relationship or a copy of the contract establishing such relationship to this letter).

3. In all other states this firm, as owner or operator or guarantor, is demonstrating financial assurance for the following facilities through the use of a test equivalent or substantially equivalent to the financial test specified in Sections R315-261-140 through R315-261-143 and R315-261-147 through R315-261-151. The current cost estimates covered by such a test are shown for each facility:____.

4. This firm is the owner or operator of the following hazardous secondary materials management facilities for which financial assurance is not demonstrated either to EPA or a State through the financial test or any other financial assurance mechanism specified in Sections R315-261-140 through R315-261-143 and R315-261-147 through R315-261-151 or equivalent or substantially equivalent State mechanisms. The current cost estimates not covered by such financial assurance are shown for each facility:____.

5. This firm is the owner or operator of the following UIC facilities for which financial assurance for plugging and abandonment is required under 40 CFR 144. The current closure cost estimates as required by 40 CFR 144.62 are shown for each facility:____.

6. This firm is the owner or operator of the following facilities for which financial assurance for closure or post-closure care is demonstrated through the financial test specified in Sections R315-264-140 through R315-264-151 or R315-265-140 through R315-265-148[~~40 CFR 265.140 through 150, which are adopted by reference~~]. The current closure and/or post-closure cost estimates covered by the test are shown for each facility: ____.

7. This firm guarantees, through the guarantee specified in Sections R315-264-140 through R315-264-151 or R315-265-140 through R315-265-148,[~~40 CFR 265.140 through 150, which are adopted by reference;~~] the closure or post-closure care of the following facilities owned or operated by the guaranteed party. The current cost estimates for the closure or post-closure care so guaranteed are shown for each facility: ____. The firm identified above is (insert one or more: (1) The direct or higher-tier parent corporation of the owner or operator; (2) owned by the same parent corporation as the parent corporation of the owner or operator, and receiving the following value in consideration of this guarantee ___; or (3) engaged in the following substantial business relationship with the owner or operator __, and receiving the following value in consideration of this guarantee __). (Attach a written description of the business relationship or a copy of the contract establishing such relationship to this letter).

8. In other jurisdictions and states where the Director is not authorized to administer the financial requirements of Sections R315-264-140 through R315-264-151 or R315-265-140 through R315-265-148[~~40 CFR 265.140 through 150, which are adopted by reference~~], this firm, as owner or operator or guarantor, is demonstrating financial assurance for the closure or post-closure care of the following facilities through the use of a test equivalent or substantially equivalent to the financial test specified in Sections R315-264-140 through R315-264-151 or R315-265-140 through R315-265-148[~~40 CFR 265.140 through 150, which are adopted by reference~~]. The current closure and/or post-closure cost estimates covered by such a test are shown for each facility: __.

9. This firm is the owner or operator of the following hazardous waste management facilities for which financial assurance for closure or, if a disposal facility, post-closure care, is not demonstrated either to EPA or a State through the financial test or any other financial assurance mechanism specified in Sections R315-264-140 through R315-264-151 or R315-265-140 through R315-265-148[~~40 CFR 265.140 through 150, which are adopted by reference~~], or equivalent or substantially equivalent State mechanisms. The current closure and/or post-closure cost estimates not covered by such financial assurance are shown for each facility: __.

This firm (insert "is required" or "is not required") to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on (month, day). The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed fiscal year, ended (date).

(Fill in Alternative I if the criteria of Subsection R315-261-143(e)(1)(i) are used. Fill in Alternative II if the criteria of Subsection R315-261-143(e)(1)(ii) are used.)

Alternative I

1. Sum of current cost estimates (total of all cost estimates shown in the nine paragraphs above) $__

*2. Total liabilities (if any portion of the cost estimates is included in total liabilities, you may deduct the amount of that portion from this line and add that amount to lines 3 and 4) $__

*3. Tangible net worth $____

*4. Net worth $____-

*5. Current assets $____

*6. Current liabilities $____

7. Net working capital (line 5 minus line 6) $____

*8. The sum of net income plus depreciation, depletion, and amortization $____-
*9. Total assets in U.S. (required only if less than 90% of firm's assets are located in the U.S.) $____-
10. Is line 3 at least $10 million? (Yes/No) ____
11. Is line 3 at least 6 times line 1? (Yes/No) ____-
12. Is line 7 at least 6 times line 1? (Yes/No) ____-
*13. Are at least 90% of firm's assets located in the U.S.? If not, complete line 14 (Yes/No) ____
14. Is line 9 at least 6 times line 1? (Yes/No) ____-
15. Is line 2 divided by line 4 less than 2.0? (Yes/No) ____-
16. Is line 8 divided by line 2 greater than 0.1? (Yes/No) ____-
17. Is line 5 divided by line 6 greater than 1.5? (Yes/No) ____-

Alternative II

1. Sum of current cost estimates (total of all cost estimates shown in the eight paragraphs above) $____-
2. Current bond rating of most recent issuance of this firm and name of rating service ____-
3. Date of issuance of bond ____-
4. Date of maturity of bond ____-
*5. Tangible net worth (if any portion of the cost estimates is included in "total liabilities" on your firm's financial statements, you may add the amount of that portion to this line) $____-
*6. Total assets in U.S. (required only if less than 90% of firm's assets are located in the U.S.) $____-
7. Is line 5 at least $10 million? (Yes/No) ____
8. Is line 5 at least 6 times line 1? (Yes/No) ____
*9. Are at least 90% of firm's assets located in the U.S.? If not, complete line 10 (Yes/No) ____
10. Is line 6 at least 6 times line 1? (Yes/No) ____-

I hereby certify that the wording of this letter is identical to the wording specified in Subsection R315-261-151(e) as such [~~regulations~~]rules were constituted on the date shown immediately below.

(Signature) (Name) (Title) (Date)

(f) A letter from the chief financial officer, as specified in Subsection R315-261-147(f), shall be worded as follows, except that instructions in parentheses are to be replaced with the relevant information and the parentheses deleted.

Letter From Chief Financial Officer

Director

Division of Waste Management and Radiation Control

P.O. 144880

Salt Lake City, Utah 84114-4880

I am the chief financial officer of (firm's name and address). This letter is in support of the use of the financial test to demonstrate financial responsibility for liability coverage under Section R315-261-147(insert "and costs assured Subsection R315-261-143(e)" if applicable) as specified in Sections R315-261-140 through R315-261-143 and R315-261-147 through R315-261-151.

(Fill out the following paragraphs regarding facilities and liability coverage. If there are no facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include its EPA Identification Number (if any issued), name, and address).

The firm identified above is the owner or operator of the following facilities for which liability coverage for (insert "sudden" or "nonsudden" or "both sudden and nonsudden") accidental occurrences is being demonstrated through the financial test specified in Sections R315-261-140 through R315-261-143 and R315-261-147 through R315-261-151:____

The firm identified above guarantees, through the guarantee specified in Sections R315-261-140 through R315-261-143 and R315-261-147 through R315-261-151, liability coverage for (insert "sudden" or "nonsudden" or "both sudden and nonsudden") accidental occurrences at the following facilities owned or operated by the following: ____-. The firm identified above is (insert one or more: (1) The direct or higher-tier parent corporation of the owner or operator; (2) owned by the same parent corporation as the parent corporation of the owner or operator, and receiving the following value in consideration of this guarantee -____; or (3) engaged in the following substantial business relationship with the owner or operator ____-, and receiving the following value in consideration of this guarantee ____-). (Attach a written description of the business relationship or a copy of the contract establishing such relationship to this letter.)

The firm identified above is the owner or operator of the following facilities for which liability coverage for (insert "sudden" or "nonsudden" or "both sudden and nonsudden") accidental occurrences is being demonstrated through the financial test specified in Sections R315-264-140 through R315-264-151 and R315-265-140 through R315-265-148[~~40 CFR 265.140 through 150, which are adopted by reference,~~]:____

The firm identified above guarantees, through the guarantee specified in Sections R315-264-140 through R315-264-151 and R315-265-140 through R315-265-148,[~~40 CFR 265.140 through 150, which are adopted by reference;~~] liability coverage for (insert "sudden" or "nonsudden" or "both sudden and nonsudden") accidental occurrences at the following facilities owned or operated by the following: __. The firm identified above is (insert one or more: (1) The direct or higher-tier parent corporation of the owner or operator; (2) owned by the same parent corporation as the parent corporation of the owner or operator, and receiving the following value in consideration of this guarantee __; or (3) engaged in the following substantial business relationship with the owner or operator __, and receiving the following value in consideration of this guarantee __). (Attach a written description of the business relationship or a copy of the contract establishing such relationship to this letter.)

(If you are using the financial test to demonstrate coverage of both liability and costs assured under Subsection R315-261-143(e) or closure or post-closure care costs under Section[~~s~~] R315-264-143; R315-264-145; [~~40 CFR~~]R315-265[-]-143 or R315-265-145[~~, which are adopted by reference~~]; fill in the following nine paragraphs regarding facilities and associated cost estimates. If there are no facilities that

belong in a particular paragraph, write "None" in the space indicated. For each facility, include its EPA and [~~S~~]state identification number (if any issued), name, address, and current cost estimates.)

1. This firm is the owner or operator of the following facilities for which financial assurance is demonstrated through the financial test specified in Sections R315-261-140 through R315-261-143 and R315-261-147 through R315-261-151. The current cost estimates covered by the test are shown for each facility:____.

2. This firm guarantees, through the guarantee specified in Sections R315-261-140 through R315-261-143 and R315-261-147 through R315-261-151, the following facilities owned or operated by the guaranteed party. The current cost estimates so guaranteed are shown for each facility:____. The firm identified above is (insert one or more: (1) The direct or higher-tier parent corporation of the owner or operator; (2) owned by the same parent corporation as the parent corporation of the owner or operator, and receiving the following value in consideration of this guarantee____, or (3) engaged in the following substantial business relationship with the owner or operator ____, and receiving the following value in consideration of this guarantee____). (Attach a written description of the business relationship or a copy of the contract establishing such relationship to this letter).

3. In all other states this firm, as owner or operator or guarantor, is demonstrating financial assurance for the following facilities through the use of a test equivalent or substantially equivalent to the financial test specified in Sections R315-261-140 through R315-261-143 and R315-261-147 through R315-261-151. The current cost estimates covered by such a test are shown for each facility:____.

4. This firm is the owner or operator of the following hazardous secondary materials management facilities for which financial assurance is not demonstrated either to EPA or a [~~S~~]state through the financial test or any other financial assurance mechanism specified in Sections R315-261-140 through R315-261-143 and R315-261-147 through R315-261-151 or equivalent or substantially equivalent [~~S~~]state mechanisms. The current cost estimates not covered by such financial assurance are shown for each facility:____.

5. This firm is the owner or operator of the following UIC facilities for which financial assurance for plugging and abandonment is required under 40 CFR 144. The current closure cost estimates as required by 40 CFR 144.62 are shown for each facility:____.

6. This firm is the owner or operator of the following facilities for which financial assurance for closure or post-closure care is demonstrated through the financial test specified in Sections R315-264-140 through R315-264-151 and R315-265-140 through R315-265-148[~~40 CFR 265.140 through 150, which are adopted by reference~~]. The current closure and/or post-closure cost estimates covered by the test are shown for each facility: ____.

7. This firm guarantees, through the guarantee specified in Sections R315-264-140 through R315-264-151 and R315-265-140 through R315-265-148[~~40 CFR 265.140 through 150, which are adopted by reference~~]; the closure or post-closure care of the following facilities owned or operated by the guaranteed party. The current cost estimates for the closure or post-closure care so guaranteed are shown for each facility: ____. The firm identified above is (insert one or more: (1) The direct or higher-tier parent corporation of the owner or operator; (2) owned by the same parent corporation as the parent corporation of the owner or operator, and receiving the following value in consideration of this guarantee ____; or (3) engaged in the following substantial business relationship with the owner or operator ____, and receiving the following value in consideration of this guarantee ____).

(Attach a written description of the business relationship or a copy of the contract establishing such relationship to this letter).

8. In other jurisdictions, and states where the Director is not authorized to administer the financial requirements of Sections R315-264[~~.264~~]-140 through R315-264-151 or R315-265-140 through R315-265-148[~~40 CFR 265.140 through 150, which are adopted by reference~~], this firm, as owner or operator or guarantor, is demonstrating financial assurance for the closure or post-closure care of the following facilities through the use of a test equivalent or substantially equivalent to the financial test specified in Sections R315-264-140 through R315-264-151 and R315-265-140 through R315-265-148[~~40 CFR 265.140 through 150, which are adopted by reference~~]. The current closure and/or post-closure cost estimates covered by such a test are shown for each facility: ____.

9. This firm is the owner or operator of the following hazardous waste management facilities for which financial assurance for closure or, if a disposal facility, post-closure care, is not demonstrated either to EPA or a [~~S~~]state through the financial test or any other financial assurance mechanism specified in Sections R315-264-140 through R315-264-151 and R315-265-140 through R315-265-148[~~40 CFR 265.140 through 150, which are adopted by reference~~], or equivalent or substantially equivalent [~~S~~]state mechanisms. The current closure and/or post-closure cost estimates not covered by such financial assurance are shown for each facility: ____.

This firm (insert "is required" or "is not required") to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on (month, day). The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed fiscal year, ended (date).

Part A. Liability Coverage for Accidental Occurrences

(Fill in Alternative I if the criteria of Subsection R315-261-147(f)(1)(i) are used. Fill in Alternative II if the criteria of Subsection R315-261-147(f)(1)(ii) are used.)

Alternative I

1. Amount of annual aggregate liability coverage to be demonstrated $____-.

*2. Current assets $____-.

*3. Current liabilities $____-.

4. Net working capital (line 2 minus line 3) $____-.

*5. Tangible net worth $____-.

*6. If less than 90% of assets are located in the U.S., give total U.S. assets $____-.

7. Is line 5 at least $10 million? (Yes/No) ____-.

8. Is line 4 at least 6 times line 1? (Yes/No) ____-.

9. Is line 5 at least 6 times line 1? (Yes/No) ____-.

*10. Are at least 90% of assets located in the U.S.? (Yes/No) ____. If not, complete line 11.

11. Is line 6 at least 6 times line 1? (Yes/No) ____.

Alternative II

1. Amount of annual aggregate liability coverage to be demonstrated $____-.
2. Current bond rating of most recent issuance and name of rating service ____-____-.
3. Date of issuance of bond _____---.
4. Date of maturity of bond _____---.
*5. Tangible net worth $____-.
*6. Total assets in U.S. (required only if less than 90% of assets are located in the U.S.) $____-.
7. Is line 5 at least $10 million? (Yes/No) ____-.
8. Is line 5 at least 6 times line 1? ____-.
9. Are at least 90% of assets located in the U.S.? If not, complete line 10. (Yes/No) __.
10. Is line 6 at least 6 times line 1? ____-.

(Fill in part B if you are using the financial test to demonstrate assurance of both liability coverage and costs assured under Subsection R315-261-143(e) or closure or post-closure care costs under Section[~~s~~] R315-264-143; R315-264-145; [~~40 CFR~~]R315-265[~~-~~]-143 or R315-265-145[~~, which is adopted by reference~~].)

Part B. Facility Care and Liability Coverage

(Fill in Alternative I if the criteria of Subsection R315-261-143(e)(1)(i) and Subsection R315-261-147(f)(1)(i) are used. Fill in Alternative II if the criteria of Subsection R315-261-143(e)(1)(ii) and Subsection R315-261-147(f)(1)(ii) are used.)

Alternative I

1. Sum of current cost estimates (total of all cost estimates listed above) $____-
2. Amount of annual aggregate liability coverage to be demonstrated $____-
3. Sum of lines 1 and 2 $____
*4. Total liabilities (if any portion of your cost estimates is included in your total liabilities, you may deduct that portion from this line and add that amount to lines 5 and 6) $____-
*5. Tangible net worth $____
*6. Net worth $____-
*7. Current assets $____
*8. Current liabilities $____
9. Net working capital (line 7 minus line 8) $____
*10. The sum of net income plus depreciation, depletion, and amortization $____-
*11. Total assets in U.S. (required only if less than 90% of assets are located in the U.S.) $____
12. Is line 5 at least $10 million? (Yes/No)
13. Is line 5 at least 6 times line 3? (Yes/No)
14. Is line 9 at least 6 times line 3? (Yes/No)
*15. Are at least 90% of assets located in the U.S.? (Yes/No) If not, complete line 16.
16. Is line 11 at least 6 times line 3? (Yes/No)
17. Is line 4 divided by line 6 less than 2.0? (Yes/No)
18. Is line 10 divided by line 4 greater than 0.1? (Yes/No)
19. Is line 7 divided by line 8 greater than 1.5? (Yes/No)

Alternative II

1. Sum of current cost estimates (total of all cost estimates listed above) $____-
2. Amount of annual aggregate liability coverage to be demonstrated $____-
3. Sum of lines 1 and 2 $____
4. Current bond rating of most recent issuance and name of rating service _____-
5. Date of issuance of bond _____---
6. Date of maturity of bond _____---
*7. Tangible net worth (if any portion of the cost estimates is included in "total liabilities" on your financial statements you may add that portion to this line) $____-
*8. Total assets in the U.S. (required only if less than 90% of assets are located in the U.S.) $____-
9. Is line 7 at least $10 million? (Yes/No)
10. Is line 7 at least 6 times line 3? (Yes/No)
*11. Are at least 90% of assets located in the U.S.? (Yes/No) If not complete line 12.
12. Is line 8 at least 6 times line 3? (Yes/No)

I hereby certify that the wording of this letter is identical to the wording specified in Subsection R315-261-151(f) as such [~~regulations~~]rules were constituted on the date shown immediately below.

(Signature)

(Name)

(Title)

(Date)

(g)(1) A corporate guarantee, as specified in Subsection R315-261-143(e), shall be worded as follows, except that instructions in parentheses are to be replaced with the relevant information and the parentheses deleted:

Corporate Guarantee for Facility Care

Guarantee made this (date) by (name of guaranteeing entity), a business corporation organized under the laws of the State of (insert name of State), herein referred to as guarantor. This guarantee is made on behalf of the (owner or operator) of (business address), which is (one of the following: "our subsidiary"; "a subsidiary of (name and address of common parent corporation), of which guarantor is a subsidiary"; or "an entity with which guarantor has a substantial business relationship, as defined in Subsections R315-264-141(h) and [~~40 CFR~~]R315-265[~~,~~]-141(h)[~~, which is adopted by reference~~]," to the Director of the Utah Division of Waste Management and Radiation Control (the Director).

Recitals

1. Guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in Subsection R315-261-143(e).

2. (Owner or operator) owns or operates the following facility(ies) covered by this guarantee: (List for each facility: EPA and [~~S~~]state Identification Number (if any issued), name, and address.

3. "Closure plans" as used below refer to the plans maintained as required by Sections R315-261-140 through R315-261-143 and R315-261-147 through R315-261-151 for the care of facilities as identified above.

4. For value received from (owner or operator), guarantor guarantees that in the event of a determination by the Director that the hazardous secondary materials at the owner or operator's facility covered by this guarantee do not meet the conditions of the exclusion under Subsection R315-261-4(a)(24), the guarantor shall dispose of any hazardous secondary material as hazardous waste, and close the facility in accordance with closure requirements found in Sections R315-264-110 through R315-264-120 or [~~40 CFR~~]R315-265-110 through R315-265-121[~~, which are adopted by reference,~~] as applicable, or establish a trust fund as specified in Subsection R315-261-143(a) in the name of the owner or operator in the amount of the current cost estimate.

5. Guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within 90 days, by certified mail, notice to the Director and to (owner or operator) that [~~he~~]the Guarantor intends to provide alternate financial assurance as specified in Sections R315-261-140 through R315-261-143 and R315-261-147 though R315-261-151, as applicable, in the name of (owner or operator). Within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless (owner or operator) has done so.

6. The guarantor agrees to notify the Director by certified mail, of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.

7. Guarantor agrees that within 30 days after being notified by the Director of a determination that guarantor no longer meets the financial test criteria or that [~~he~~]the guarantor is disallowed from continuing as a guarantor, [~~he~~]the guarantor shall establish alternate financial assurance as specified in of Sections R315-264-140 through R315-264-151 or R315-265-140 through R315-265-148[~~40 CFR 265.140 through 150 that are adopted by reference~~], or Sections R315-261-140 through R315-261-143 and R315-261-147 [~~though~~]through R315-261-151, as applicable, in the name of (owner or operator) unless (owner or operator) has done so.

8. Guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: amendment or modification of the closure plan, the extension or reduction of the time of performance, or any other modification or alteration of an obligation of the owner or operator pursuant to Rules R315-264, R315-265, or Sections R315-261-140 through R315-261-143 and R315-261-147 [~~though~~]through R315-261-151.

9. Guarantor agrees to remain bound under this guarantee for as long as (owner or operator) shall comply with the applicable financial assurance requirements of Sections R315-264-140 through R315-264-151 or R315-265-140 through R315-265-148[~~40 CFR 265.140 through 150 that are adopted by reference~~], or the financial assurance condition of Subsection R315-261-4(a)(24)(vi)(F) for the above-listed facilities, except as provided in paragraph 10 of this agreement.

10. (Insert the following language if the guarantor is (a) a direct or higher-tier corporate parent, or (b) a firm whose parent corporation is also the parent corporation of the owner or operator):

Guarantor may terminate this guarantee by sending notice by certified mail to the Director and to (owner or operator), provided that this guarantee may not be terminated unless and until (the owner or operator) obtains, and the Director approves, alternate coverage complying with Section R315-261-143.

(Insert the following language if the guarantor is a firm qualifying as a guarantor due to its "substantial business relationship" with the owner or operator)

Guarantor may terminate this guarantee 120 days following the receipt of notification, through certified mail, by the Director and by (the owner or operator).

11. Guarantor agrees that if (owner or operator) fails to provide alternate financial assurance as specified in Sections R315-264-140 through R315-264-151 or R315-265-140 through R315-265-148[~~40 CFR 265.140 through 150 that are adopted by reference~~], or Sections R315-261-140 through R315-261-143 and R315-261-147 [~~though~~]R315-261-151, as applicable, and obtain written approval of such assurance from the Director within 90 days after a notice of cancellation by the guarantor is received by the Director from guarantor, guarantor shall provide such alternate financial assurance in the name of (owner or operator).

12. Guarantor expressly waives notice of acceptance of this guarantee by the Director or by (owner or operator). Guarantor also expressly waives notice of amendments or modifications of the closure plan and of amendments or modifications of the applicable requirements of Sections R315-264-140 through R315-264-151 or R315-265-140 through R315-265-148[~~40 CFR 265.140 through 150 that are adopted by reference~~], or Sections R315-261-140 through R315-261-143 and R315-261-147 [~~though~~]through R315-261-151.

I hereby certify that the wording of this guarantee is identical to the wording specified in Subsection R315-261-151(g)(1) as such [~~regulations~~]rules were constituted on the date first above written.

Effective date: (Name of guarantor) (Authorized signature for guarantor) (Name of person signing) (Title of person signing) Signature of witness or notary:

(2) A guarantee, as specified in Subsection R315-261-147(g), shall be worded as follows, except that instructions in parentheses are to be replaced with the relevant information and the parentheses deleted:

Guarantee for Liability Coverage

Guarantee made this (date) by (name of guaranteeing entity), a business corporation organized under the laws of (if incorporated within the United States insert "the State of ____-" and insert name of State; if incorporated outside the United States insert the name of the country in which incorporated, the principal place of business within the United States, and the name and address of the registered agent in the [~~S~~]state of the principal place of business), herein referred to as guarantor. This guarantee is made on behalf of (owner or operator) of (business address), which is one of the following: "our subsidiary;" "a subsidiary of (name and address of common parent corporation), of which guarantor is a subsidiary;" or "an entity with which guarantor has a substantial business relationship, as defined in (either Subsection R315-264-141(h) or [~~40 CFR~~]Subsection R315-265[~~,~~]-141(h)[~~, which is adopted by reference~~])", to any and all third parties who have sustained or may sustain bodily injury or property damage caused by (sudden and/or nonsudden) accidental occurrences arising from operation of the facility(ies) covered by this guarantee.

Recitals

1. Guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in Subsection R315-261-147(g).

2. (Owner or operator) owns or operates the following facility(ies) covered by this guarantee: (List for each facility: EPA and state identification number (if any issued), name, and address; and if guarantor is incorporated outside the United States list the name and address of the guarantor's registered agent in each [~~S~~]state.) This corporate guarantee satisfies RCRA third-party liability requirements for (insert "sudden" or "nonsudden" or "both sudden and nonsudden") accidental occurrences in above-named owner or operator facilities for coverage in the amount of (insert dollar amount) for each occurrence and (insert dollar amount) annual aggregate.

3. For value received from (owner or operator), guarantor guarantees to any and all third parties who have sustained or may sustain bodily injury or property damage caused by (sudden and/or nonsudden) accidental occurrences arising from operations of the facility(ies) covered by this guarantee that in the event that (owner or operator) fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by (sudden and/or nonsudden) accidental occurrences, arising from the operation of the above-named facilities, or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor shall satisfy such judgment(s), award(s) or settlement agreement(s) up to the limits of coverage identified above.

4. Such obligation does not apply to any of the following:

(a) Bodily injury or property damage for which (insert owner or operator) is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that (insert owner or operator) would be obligated to pay in the absence of the contract or agreement.

(b) Any obligation of (insert owner or operator) under a workers' compensation, disability benefits, or unemployment compensation law or any similar law.

(c) Bodily injury to:

(1) An employee of (insert owner or operator) arising from, and in the course of, employment by (insert owner or operator); or

(2) The spouse, child, parent, brother, or sister of that employee as a consequence of, or arising from, and in the course of employment by (insert owner or operator). This exclusion applies:

(A) Whether (insert owner or operator) may be liable as an employer or in any other capacity; and

(B) To any obligation to share damages with or repay another person who shall pay damages because of the injury to persons identified in paragraphs (1) and (2).

(d) Bodily injury or property damage arising out of the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle or watercraft.

(e) Property damage to:

(1) Any property owned, rented, or occupied by (insert owner or operator);

(2) Premises that are sold, given away or abandoned by (insert owner or operator) if the property damage arises out of any part of those premises;

(3) Property loaned to (insert owner or operator);

(4) Personal property in the care, custody or control of (insert owner or operator);

(5) That particular part of real property on which (insert owner or operator) or any contractors or subcontractors working directly or indirectly on behalf of (insert owner or operator) are performing operations, if the property damage arises out of these operations.

5. Guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within 90 days, by certified mail, notice to the Director and to (owner or operator) that [~~he~~]the guarantor intends to provide alternate liability coverage as specified in Section R315-261-147, as applicable, in the name of (owner or operator). Within 120 days after the end of such fiscal year, the guarantor shall establish such liability coverage unless (owner or operator) has done so.

6. The guarantor agrees to notify the Director by certified mail of a voluntary or involuntary proceeding under title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding. Guarantor agrees that within 30 days after being notified by the Director of a determination that guarantor no longer meets the financial test criteria or that [~~he~~]the guarantor is disallowed from continuing as a guarantor, [~~he~~]the guarantor shall establish alternate liability coverage as specified in Section R315-261-147 in the name of (owner or operator), unless (owner or operator) has done so.

7. Guarantor reserves the right to modify this agreement to take into account amendment or modification of the liability requirements set by Section R315-261-147, provided that such modification shall become effective only if the Director does not disapprove the modification within 30 days of receipt of notification of the modification.

8. Guarantor agrees to remain bound under this guarantee for so long as (owner or operator) shall comply with the applicable requirements of Section R315-261-147 for the above-listed facility(ies), except as provided in paragraph 10 of this agreement.

9. (Insert the following language if the guarantor is (a) a direct or higher-tier corporate parent, or (b) a firm whose parent corporation is also the parent corporation of the owner or operator):[

~~10.~~] Guarantor may terminate this guarantee by sending notice by certified mail to the Director and to (owner or operator), provided that this guarantee may not be terminated unless and until (the owner or operator) obtains, and the Director approves, alternate liability coverage complying with Section R315-261-147.

(Insert the following language if the guarantor is a firm qualifying as a guarantor due to its "substantial business relationship" with the owner or operator):

Guarantor may terminate this guarantee 120 days following receipt of notification, through certified mail, by the Director and by (the owner or operator).

[~~11~~]10. Guarantor hereby expressly waives notice of acceptance of this guarantee by any party.

[~~12~~]11. Guarantor agrees that this guarantee is in addition to and does not affect any other responsibility or liability of the guarantor with respect to the covered facilities.

[~~13~~]12. The Guarantor shall satisfy a third-party liability claim only on receipt of one of the following documents:

(a) Certification from the Principal and the third-party claimant(s) that the liability claim should be paid. The certification shall be worded as follows, except that instructions in parentheses are to be replaced with the relevant information and the parentheses deleted:

Certification of Valid Claim

The undersigned, as parties (insert Principal) and (insert name and address of third-party claimant(s)), hereby certify that the claim of bodily injury and/or property damage caused by a (sudden or nonsudden) accidental occurrence arising from operating (Principal's) facility should be paid in the amount of $.

(Signatures) Principal (Notary) Date (Signatures) Claimant(s) (Notary) Date

(b) A valid final court order establishing a judgment against the Principal for bodily injury or property damage caused by sudden or nonsudden accidental occurrences arising from the operation of the Principal's facility or group of facilities.

14. In the event of combination of this guarantee with another mechanism to meet liability requirements, this guarantee shall be considered (insert "primary" or "excess") coverage.

I hereby certify that the wording of the guarantee is identical to the wording specified in Subsection R315-261-151(g)(2) as such [~~regulations~~]rules were constituted on the date shown immediately below.

Effective date:

(Name of guarantor) (Authorized signature for guarantor)

(Name of person signing) (Title of person signing) Signature of witness or notary:

(h) A hazardous waste facility liability endorsement as required by Section R315-261-147 shall be worded as follows, except that instructions in parentheses are to be replaced with the relevant information and the parentheses deleted:

Hazardous Secondary Material Reclamation/Intermediate Facility Liability Endorsement

1. This endorsement certifies that the policy to which the endorsement is attached provides liability insurance covering bodily injury and property damage in connection with the insured's obligation to demonstrate financial responsibility under Section R35-261-147. The coverage applies at (list EPA and state Identification Number (if any issued), name, and address for each facility) for (insert "sudden accidental occurrences," "nonsudden accidental occurrences," or "sudden and nonsudden accidental occurrences"; if coverage is for multiple facilities and the coverage is different for different facilities, indicate which facilities are insured for sudden accidental occurrences, which are insured for nonsudden accidental occurrences, and which are insured for both). The limits of liability are (insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's liability), exclusive of legal defense costs.

2. The insurance afforded with respect to such occurrences is subject to all of the terms and conditions of the policy; provided, however, that any provisions of the policy inconsistent with subsections (a) through (e) of this Paragraph 2 are hereby amended to conform with subsections (a) through (e):

(a) Bankruptcy or insolvency of the insured shall not relieve the Insurer of its obligations under the policy to which this endorsement is attached.

(b) The Insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the Insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated as specified in Subsection R315-261-147(f).

(c) Whenever requested by the Director of the Utah Division of Waste Management and Radiation Control (the Director), the Insurer agrees to furnish to the Director a signed duplicate original of the policy and all endorsements.

(d) Cancellation of this endorsement, whether by the Insurer, the insured, a parent corporation providing insurance coverage for its subsidiary, or by a firm having an insurable interest in and obtaining liability insurance on behalf of the owner or operator of the facility, shall be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is received by the Director.

(e) Any other termination of this endorsement shall be effective only upon written notice and only after the expiration of [~~thirty (~~]30[~~)~~] days after a copy of such written notice is received by the Director.

Attached to and forming part of policy No. __ issued by (name of Insurer), herein called the Insurer, of (address of Insurer) to (name of insured) of (address) this _____ day of _____, 20__. The effective date of said policy is _____ day of _____, 20__.

I hereby certify that the wording of this endorsement is identical to the wording specified in Subsection R315-261-151(h) as such regulation was constituted on the date first above written, and that the Insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more [~~S~~]states.

(Signature of Authorized Representative of Insurer)

(Type name)

(Title), Authorized Representative of (name of Insurer)

(Address of Representative)

(i) A certificate of liability insurance as required in Section R315-261-147 shall be worded as follows, except that the instructions in parentheses are to be replaced with the relevant information and the parentheses deleted:

Hazardous Secondary Material Reclamation/Intermediate Facility Certificate of Liability Insurance

1. (Name of Insurer), (the "Insurer"), of (address of Insurer) hereby certifies that it has issued liability insurance covering bodily injury and property damage to (name of insured), (the "insured"), of (address of insured) in connection with the insured's obligation to demonstrate financial responsibility under Rules R315-264 and R315-265, and the financial assurance condition of Subsection R315-261-4(a)(24)(vi)(F). The coverage applies at (list EPA and state Identification Number (if any issued), name, and address for each facility) for (insert "sudden accidental occurrences," "nonsudden accidental occurrences," or "sudden and nonsudden accidental occurrences"; if coverage is for multiple facilities and the coverage is different for different facilities, indicate which facilities are insured for sudden accidental occurrences, which are insured for nonsudden accidental occurrences, and which are insured for both). The limits of liability are (insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's liability), exclusive of legal defense costs. The coverage is provided under policy number, issued on (date). The effective date of said policy is (date).

2. The Insurer further certifies the following with respect to the insurance described in Paragraph 1:

(a) Bankruptcy or insolvency of the insured shall not relieve the Insurer of its obligations under the policy.

(b) The Insurer is liable for the payment of amounts within any deductible applicable to the policy, with a right of reimbursement by the insured for any such payment made by the Insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated as specified in Section R315-261-147.

(c) Whenever requested by the Director of the Utah Division of Waste Management and Radiation Control (the Director), the Insurer agrees to furnish to the Director a signed duplicate original of the policy and all endorsements.

(d) Cancellation of the insurance, whether by the insurer, the insured, a parent corporation providing insurance coverage for its subsidiary, or by a firm having an insurable interest in and obtaining liability insurance on behalf of the owner or operator of the hazardous waste management facility, shall be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is received by the Director.

(e) Any other termination of the insurance shall be effective only upon written notice and only after the expiration of [~~thirty (~~]30[~~)~~] days after a copy of such written notice is received by the Director.

I hereby certify that the wording of this instrument is identical to the wording specified in Subsection R315-261-151(i) as such regulation was constituted on the date first above written, and that the Insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more [~~S~~]states.

(Signature of authorized representative of Insurer)

(Type name)

(Title), Authorized Representative of (name of Insurer)

(Address of Representative)

(j) A letter of credit, as specified in Subsection R315-261-147(h) of this chapter, shall be worded as follows, except that instructions in parentheses are to be replaced with the relevant information and the parentheses deleted:

Irrevocable Standby Letter of Credit

(Name and Address of Issuing Institution)

(Director name), Director,

Division of Waste Management and Radiation Control

195 North 1950 West

P.O Box 144880

Salt Lake City, Utah 84114-4880

Dear Sir or Madam:

We hereby establish our Irrevocable Standby Letter of Credit No. ____----- in the favor of ("any and all third-party liability claimants" or insert name of trustee of the standby trust fund), at the request and for the account of (owner or operator's name and address) for third-party liability awards or settlements up to (in words) U.S. dollars $____----- per occurrence and the annual aggregate amount of (in words) U.S. dollars $_---, for sudden accidental occurrences and/or for third-party liability awards or settlements up to the amount of (in words) U.S. dollars $____----- per occurrence, and the annual aggregate amount of (in words) U.S. dollars $____-----, for nonsudden accidental occurrences available upon presentation of a sight draft bearing reference to this letter of credit No. ____-----, and (insert the following language if the letter of credit is being used without a standby trust fund: (1) a signed certificate reading as follows:

Certificate of Valid Claim

The undersigned, as parties (insert principal) and (insert name and address of third party claimant(s)), hereby certify that the claim of bodily injury and/or property damage caused by a (sudden or nonsudden) accidental occurrence arising from operations of (principal's) facility should be paid in the amount of $( ). We hereby certify that the claim does not apply to any of the following:

(a) Bodily injury or property damage for which (insert principal) is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that (insert principal) would be obligated to pay in the absence of the contract or agreement.

(b) Any obligation of (insert principal) under a workers' compensation, disability benefits, or unemployment compensation law or any similar law.

(c) Bodily injury to:

(1) An employee of (insert principal) arising from, and in the course of, employment by (insert principal); or

(2) The spouse, child, parent, brother or sister of that employee as a consequence of, or arising from, and in the course of employment by (insert principal).

This exclusion applies:

(A) Whether (insert principal) may be liable as an employer or in any other capacity; and

(B) To any obligation to share damages with or repay another person who shall pay damages because of the injury to persons identified in paragraphs (1) and (2).

(d) Bodily injury or property damage arising out of the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle or watercraft.

(e) Property damage to:

(1) Any property owned, rented, or occupied by (insert principal);

(2) Premises that are sold, given away or abandoned by (insert principal) if the property damage arises out of any part of those premises;

(3) Property loaned to (insert principal);

(4) Personal property in the care, custody or control of (insert principal);

(5) That particular part of real property on which (insert principal) or any contractors or subcontractors working directly or indirectly on behalf of (insert principal) are performing operations, if the property damage arises out of these operations.

(Signatures)

Grantor

(Signatures)

Claimant(s)

or (2) a valid final court order establishing a judgment against the Grantor for bodily injury or property damage caused by sudden or nonsudden accidental occurrences arising from the operation of the Grantor's facility or group of facilities.)

This letter of credit is effective as of (date) and shall expire on (date at least one year later), but such expiration date shall be automatically extended for a period of (at least one year) on (date and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify you, the Director, and (owner's or operator's name) by certified mail that we have decided not to extend this letter of credit beyond the current expiration date.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us.

(Insert the following language if a standby trust fund is not being used: "In the event that this letter of credit is used in combination with another mechanism for liability coverage, this letter of credit shall be considered (insert "primary" or "excess" coverage)."

We certify that the wording of this letter of credit is identical to the wording specified in Subsection R315-261-151(j) as such [~~regulations~~]rules were constituted on the date shown immediately below.

(Signature(s)

and title(s) of official(s) of issuing institution)

(Date).

This credit is subject to (insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce," or "the Uniform Commercial Code").

(k) A surety bond, as specified in Subsection R315-261-147(i), shall be worded as follows: except that instructions in parentheses are to be replaced with the relevant information and the parentheses deleted:

Payment Bond

Surety Bond No. (Insert number)

Parties (Insert name and address of owner or operator), Principal, incorporated in (Insert [~~S~~]state of incorporation) of (Insert city and [~~S~~]state of principal place of business) and (Insert name and address of surety company(ies)), Surety Company(ies), of (Insert surety(ies) place of business).

(EPA and [~~S~~]state Identification Number (if any issued), name, and address for each facility guaranteed by this bond:) __

Table		
Nonsudden		
Sudden Accidental		
Accidental		
Occurrences		
Occurrences		
Penal Sum Per Occurrence	Insert Amount	Insert Amount
Annual Aggregate	Insert Amount	Insert Amount

[~~TABLE~~

	~~Nonsudden~~	~~Sudden accidental~~
	~~accidental~~	~~occurrences~~
	~~occurrences~~	
~~Penal Sum Per Occurrence~~	~~(insert amount)~~	~~(insert amount)~~
~~Annual Aggregate~~	~~(insert amount)~~	~~(insert amount)~~

]

Purpose: This is an agreement between the Surety(ies) and the Principal under which the Surety(ies), its(their) successors and assignees, agree to be responsible for the payment of claims against the Principal for bodily injury and/or property damage to third parties caused by ("sudden" and/or "nonsudden") accidental occurrences arising from operations of the facility or group of facilities in the sums prescribed herein; subject to the governing provisions and the following conditions.

Governing Provisions:

(1) Section 3004 of the Resource Conservation and Recovery Act of 1976, as amended.

(2) Rules adopted by the Utah Waste Management and Radiation Control Board, particularly Rules R315-264; R315-265[~~, that is adopted by reference~~]; and Sections R315-261-140 through R315-261-143 and R315-261-147 through R315-261-151 (if applicable).

Conditions:

(1) The Principal is subject to the applicable governing provisions that require the Principal to have and maintain liability coverage for bodily injury and property damage to third parties caused by ("sudden" and/or "nonsudden") accidental occurrences arising from operations of the facility or group of facilities. Such obligation does not apply to any of the following:

(a) Bodily injury or property damage for which (insert Principal) is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that (insert Principal) would be obligated to pay in the absence of the contract or agreement.

(b) Any obligation of (insert Principal) under a workers' compensation, disability benefits, or unemployment compensation law or similar law.

(c) Bodily injury to:

(1) An employee of (insert Principal) arising from, and in the course of, employment by (insert principal); or

(2) The spouse, child, parent, brother or sister of that employee as a consequence of, or arising from, and in the course of employment by (insert Principal). This exclusion applies:

(A) Whether (insert Principal) may be liable as an employer or in any other capacity; and

(B) To any obligation to share damages with or repay another person who shall pay damages because of the injury to persons identified in paragraphs (1) and (2).

(d) Bodily injury or property damage arising out of the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle or watercraft.

(e) Property damage to:

(1) Any property owned, rented, or occupied by (insert Principal);

(2) Premises that are sold, given away or abandoned by (insert Principal) if the property damage arises out of any part of those premises;

(3) Property loaned to (insert Principal);

(4) Personal property in the care, custody or control of (insert Principal);

(5) That particular part of real property on which (insert Principal) or any contractors or subcontractors working directly or indirectly on behalf of (insert Principal) are performing operations, if the property damage arises out of these operations.

(2) This bond assures that the Principal will satisfy valid third party liability claims, as described in condition 1.

(3) If the Principal fails to satisfy a valid third party liability claim, as described above, the Surety(ies) becomes liable on this bond obligation.

(4) The Surety(ies) shall satisfy a third party liability claim only upon the receipt of one of the following documents:

(a) Certification from the Principal and the third party claimant(s) that the liability claim should be paid. The certification shall be worded as follows, except that instructions in parentheses are to be replaced with the relevant information and the parentheses deleted:

Certification of Valid Claim

The undersigned, as parties (insert name of Principal) and (insert name and address of third party claimant(s)), hereby certify that the claim of bodily injury and/or property damage caused by a (sudden or nonsudden) accidental occurrence arising from operating (Principal's) facility should be paid in the amount of $( ).

(Signature)

Principal

(Notary) Date

(Signature(s))

Claimant(s)

(Notary) Date

or (b) A valid final court order establishing a judgment against the Principal for bodily injury or property damage caused by sudden or nonsudden accidental occurrences arising from the operation of the Principal's facility or group of facilities.

(5) In the event of combination of this bond with another mechanism for liability coverage, this bond shall be considered (insert "primary" or "excess") coverage.

(6) The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond. In no event shall the obligation of the Surety(ies) hereunder exceed the amount of said annual aggregate penal sum, provided that the Surety(ies) furnish(es) notice to the Director forthwith of all claims filed and payments made by the Surety(ies) under this bond.

(7) The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal and the Director, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by the Principal and the Director, as evidenced by the return receipt.

(8) The Principal may terminate this bond by sending written notice to the Surety(ies) and to the Director.

(9) The Surety(ies) hereby waive(s) notification of amendments to applicable laws, statutes, rules and regulations and agree(s) that no such amendment shall in any way alleviate its (their) obligation on this bond.

(10) This bond is effective from (insert date) (12:01 a.m., standard time, at the address of the Principal as stated herein) and shall continue in force until terminated as described above.

In Witness Whereof, the Principal and Surety(ies) have executed this Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in Subsection R315-261-151(k), as such [~~regulations~~]rules were constituted on the date this bond was executed.

PRINCIPAL

(Signature(s))

(Name(s))

(Title(s))

(Corporate Seal)

CORPORATE SURETY(IES)

(Name and address)

State of incorporation: Liability Limit: $(Signature(s))

(Name(s) and title(s))

(Corporate seal)

(For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.)

Bond premium: $

(l)(1) A trust agreement, as specified in Subsection R315-261-147(j), shall be worded as follows, except that instructions in parentheses are to be replaced with the relevant information and the parentheses deleted:

Trust Agreement

Trust Agreement, the "Agreement," entered into as of (date) by and between (name of the owner or operator) a (name of State) (insert "corporation," "partnership," "association," or "proprietorship"), the "Grantor," and (name of corporate trustee), (insert, "incorporated in the State of ____" or "a national bank"), the "trustee."

Whereas, the Waste Management and Radiation Control Board of the State of Utah, "the Board", has established certain [~~regulations~~]rules applicable to the Grantor, requiring that an owner or operator shall demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental and/or nonsudden accidental occurrences arising from operations of the facility or group of facilities.

Whereas, the Grantor has elected to establish a trust to assure all or part of such financial responsibility for the facilities identified herein.

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee.

Now, therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

(a) The term "BOARD", "Utah Waste Management and Radiation Control Board" created pursuant to Utah Code [~~Annotated~~]Section 19-1-106.

(b) The term "Director" means the Director, of the Division of Waste Management and Radiation Control, his successors, designees, and any subsequent entity of [~~the State of~~]Utah upon whom the duties of regulation and enforcement of [~~regulations~~]rules governing hazardous waste.

(c) The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.

(d) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of Facilities. This agreement pertains to the facilities identified on attached schedule A (on schedule A, for each facility list the EPA and [~~S~~]state Identification Number (if any issued), name, and address of the facility(ies) and the amount of liability coverage, or portions thereof, if more than one instrument affords combined coverage as demonstrated by this Agreement).

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund, hereinafter the "Fund," for the benefit of any and all third parties injured or damaged by (sudden and/or nonsudden) accidental occurrences arising from operation of the facility(ies) covered by this guarantee, in the amounts of ____-(up to $1 million) per occurrence and (up to $2 million) annual aggregate for sudden accidental occurrences and ____ (up to $3 million) per occurrence and ____-(up to $6 million) annual aggregate for nonsudden occurrences, except that the Fund is not established for the benefit of third parties for the following:

(a) Bodily injury or property damage for which (insert Grantor) is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that (insert Grantor) would be obligated to pay in the absence of the contract or agreement.

(b) Any obligation of (insert Grantor) under a workers' compensation, disability benefits, or unemployment compensation law or any similar law.

(c) Bodily injury to:

(1) An employee of (insert Grantor) arising from, and in the course of, employment by (insert Grantor); or

(2) The spouse, child, parent, brother or sister of that employee as a consequence of, or arising from, and in the course of employment by (insert Grantor). This exclusion applies:

(A) Whether (insert Grantor) may be liable as an employer or in any other capacity; and

(B) To any obligation to share damages with or repay another person who shall pay damages because of the injury to persons identified in paragraphs (1) and (2).

(d) Bodily injury or property damage arising out of the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle or watercraft.

(e) Property damage to:

(1) Any property owned, rented, or occupied by (insert Grantor);

(2) Premises that are sold, given away or abandoned by (insert Grantor) if the property damage arises out of any part of those premises;

(3) Property loaned to (insert Grantor);

(4) Personal property in the care, custody or control of (insert Grantor);

(5) That particular part of real property on which (insert Grantor) or any contractors or subcontractors working directly or indirectly on behalf of (insert Grantor) are performing operations, if the property damage arises out of these operations.

In the event of combination with another mechanism for liability coverage, the Fund shall be considered (insert "primary" or "excess") coverage.

The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by Director.

Section 4. Payment for Bodily Injury or Property Damage. The Trustee shall satisfy a third party liability claim by making payments from the Fund only upon receipt of one of the following documents;

(a) Certification from the Grantor and the third party claimant(s) that the liability claim should be paid. The certification shall be worded as follows, except that instructions in parentheses are to be replaced with the relevant information and the parentheses deleted:

Certification of Valid Claim

The undersigned, as parties (insert Grantor) and (insert name and address of third party claimant(s)), hereby certify that the claim of bodily injury and/or property damage caused by a (sudden or nonsudden) accidental occurrence arising from operating (Grantor's) facility or group of facilities should be paid in the amount of $( ).

(Signatures)

Grantor

(Signatures)

Claimant(s)

(b) A valid final court order establishing a judgment against the Grantor for bodily injury or property damage caused by sudden or nonsudden accidental occurrences arising from the operation of the Grantor's facility or group of facilities.

Section 5. Payments Comprising the Fund. Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

Section 6. Trustee Management. The Trustee shall invest and reinvest the principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge [~~his~~]the Trustee's duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstance then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

(i) Securities or other obligations of the Grantor, or any other owner or operator of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held unless they are securities or other obligations of the [~~F~~]federal or a [~~S~~]state government;

(ii) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the [~~F~~]federal or [~~S~~]state government; and

(iii) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the Fund to any common commingled, or collective trust fund created by the Trustee in which the fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 81a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the [~~F~~]federal or [~~S~~]state government; and

(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Annual Valuations. The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the Director a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the Director shall constitute a conclusively binding assent by the Grantor barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 12. Trustee Compensation. The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 13. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the Director, and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this section shall be paid as provided in Section 9.

Section 14. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendments to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the Director to the Trustee shall be in writing, signed by the Director, or their designees, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the Director hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or the [~~Direcotr~~]Director, except as provided for herein.

Section 15. Notice of Nonpayment. If a payment for bodily injury or property damage is made under Section 4 of this trust, the Trustee shall notify the Grantor of such payment and the amount(s) thereof within five (5) working days. The Grantor shall, on or before the anniversary date of the establishment of the Fund following such notice, either make payments to the Trustee in amounts sufficient to cause the trust to return to its value immediately prior to the payment of claims under Section 4, or shall provide written proof to the Trustee that other financial assurance for liability coverage has been obtained equaling the amount necessary to return the trust to its value prior to the payment of claims. If the Grantor does not either make payments to the Trustee or provide the Trustee with such proof, the Trustee shall within 10 working days after the anniversary date of the establishment of the Fund provide a written notice of nonpayment to the Director.

Section 16. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the Director, or by the Trustee and the Director if the Grantor ceases to exist.

Section 17. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the Director, or by the Trustee and the Director, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

The Director shall agree to termination of the Trust when the owner or operator substitutes alternate financial assurance as specified in this section.

Section 18. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the Director issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law. This Agreement shall be administered, construed, and enforced according to the laws of the State of Utah.

Section 20. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness Whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in Subsection R315-261-151(l) as such [~~regulations~~]rules were constituted on the date first above written.

(Signature of Grantor)

(Title)

Attest:

(Title)

(Seal)

(Signature of Trustee)

Attest:

(Title)

(Seal)

(2) The following is an example of the certification of acknowledgement which shall accompany the trust agreement for a trust fund as specified in Subsection R315-261-147(j). State requirements may differ on the proper content of this acknowledgement.

State of

County of

On this (date), before me personally came (owner or operator) to me known, who, being by me duly sworn, did depose and say that she/he resides at (address), that she/he is (title) of (corporation), the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that she/he signed her/~~-~~his name thereto by like order.

(Signature of Notary Public)

(m)(1) A standby trust agreement, as specified in Subsection R315-261-147(h), shall be worded as follows, except that instructions in parentheses are to be replaced with the relevant information and the parentheses deleted:

Standby Trust Agreement

Trust Agreement, the "Agreement," entered into as of (date) by and between (name of the owner or operator) a (name of a State) (insert "corporation," "partnership," "association," or "proprietorship"), the "Grantor," and (name of corporate trustee), (insert, "incorporated in the State of _____" or "a national bank"), the "trustee."

Whereas the Utah Waste Management and Radiation Control Board (Board), has established certain [~~regulations~~]rules applicable to the Grantor, requiring that an owner or operator shall demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental and/or nonsudden accidental occurrences arising from operations of the facility or group of facilities.

Whereas, the Grantor has elected to establish a standby trust into which the proceeds from a letter of credit may be deposited to assure all or part of such financial responsibility for the facilities identified herein.

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee.

Now, therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

(a) The term "Board", "Utah Waste Management and Radiation Control Board" created pursuant to Utah Code [~~Annotated~~]Section 19-1-106.

(b) The term "Director means the Director[~~,~~] of the Division of Waste Management and Radiation Control, his successors, designees, and any subsequent entity of [~~the State of~~]Utah upon whom the duties of regulation and enforcement of [~~regulations~~]rules governing hazardous waste.

(c) The term Grantor means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.

(d) The term Trustee means the Trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of Facilities. This Agreement pertains to the facilities identified on attached schedule A (on schedule A, for each facility list the EPA and [~~S~~]state Identification Number (if any issued), name, and address of the facility(ies) and the amount of liability coverage, or portions thereof, if more than one instrument affords combined coverage as demonstrated by this Agreement).

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a standby trust fund, hereafter the "Fund," for the benefit of any and all third parties injured or damaged by (sudden and/or nonsudden) accidental occurrences arising from operation of the facility(ies) covered by this guarantee, in the amounts of ____-(up to $1 million) per occurrence and ____-(up to $2 million) annual aggregate for sudden accidental occurrences and ____-(up to $3 million) per occurrence and ____-(up to $6 million) annual aggregate for nonsudden occurrences, except that the Fund is not established for the benefit of third parties for the following:

(a) Bodily injury or property damage for which (insert Grantor) is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that (insert Grantor) would be obligated to pay in the absence of the contract or agreement.

(b) Any obligation of (insert Grantor) under a workers' compensation, disability benefits, or unemployment compensation law or any similar law.

(c) Bodily injury to:

(1) An employee of (insert Grantor) arising from, and in the course of, employment by (insert Grantor); or

(2) The spouse, child, parent, brother or sister of that employee as a consequence of, or arising from, and in the course of employment by (insert Grantor).

This exclusion applies:

(A) Whether (insert Grantor) may be liable as an employer or in any other capacity; and

(B) To any obligation to share damages with or repay another person who shall pay damages because of the injury to persons identified in paragraphs (1) and (2).

(d) Bodily injury or property damage arising out of the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle or watercraft.

(e) Property damage to:

(1) Any property owned, rented, or occupied by (insert Grantor);

(2) Premises that are sold, given away or abandoned by (insert Grantor) if the property damage arises out of any part of those premises;

(3) Property loaned by (insert Grantor);

(4) Personal property in the care, custody or control of (insert Grantor);

(5) That particular part of real property on which (insert Grantor) or any contractors or subcontractors working directly or indirectly on behalf of (insert Grantor) are performing operations, if the property damage arises out of these operations.

In the event of combination with another mechanism for liability coverage, the Fund shall be considered (insert "primary" or "excess") coverage.

The Fund is established initially as consisting of the proceeds of the letter of credit deposited into the Fund. Such proceeds and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the Director.

Section 4. Payment for Bodily Injury or Property Damage. The Trustee shall satisfy a third party liability claim by drawing on the letter of credit described in Schedule B and by making payments from the Fund only upon receipt of one of the following documents:

(a) Certification from the Grantor and the third party claimant(s) that the liability claim should be paid. The certification shall be worded as follows, except that instructions in parentheses are to be replaced with the relevant information and the parentheses deleted:

Certification of Valid Claim

The undersigned, as parties (insert Grantor) and (insert name and address of third party claimant(s)), hereby certify that the claim of bodily injury and/or property damage caused by a (sudden or nonsudden) accidental occurrence arising from operating (Grantor's) facility should be paid in the amount of $( )

(Signature)

Grantor

(Signatures)

Claimant(s)

(b) A valid final court order establishing a judgment against the Grantor for bodily injury or property damage caused by sudden or nonsudden accidental occurrences arising from the operation of the Grantor's facility or group of facilities.

Section 5. Payments Comprising the Fund. Payments made to the Trustee for the Fund shall consist of the proceeds from the letter of credit drawn upon by the Trustee in accordance with the requirements of Subsection R315-261-151(k) and Section 4 of this Agreement.

Section 6. Trustee Management. The Trustee shall invest and reinvest the principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this [~~S~~]section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

(i) Securities or other obligations of the Grantor, or any other owner or operator of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2(a), shall not be acquired or held, unless they are securities or other obligations of the [~~F~~]federal or a [~~S~~]state government;

(ii) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the [~~F~~]federal or a [~~S~~]state government; and

(iii) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depositary even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depositary with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the [~~F~~]federal or [~~S~~]state government; and

(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements to the Trustee shall be paid from the Fund.

Section 10. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 11. Trustee Compensation. The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 12. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the Director and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this [~~S~~]section shall be paid as provided in Section 9.

Section 13. Instructions to the Trustee. All orders, requests, certifications of valid claims, and instructions to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendments to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the Director hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or the Director, except as provided for herein.

Section 14. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the Director, or by the Trustee and the Director if the Grantor ceases to exist.

Section 15. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 14, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the Director, or by the Trustee and the Director, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be paid to the Grantor.

The Director shall agree to termination of the Trust when the owner or operator substitutes alternative financial assurance as specified in this section.

Section 16. Immunity and indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor and the Director issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 17. Choice of Law. This Agreement shall be administered, construed, and enforced according to the laws of the State of Utah.

Section 18. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation of the legal efficacy of this Agreement.

In Witness Whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in Subsection R315-261-151(m) as such [~~regulations~~]rules were constituted on the date first above written.

(Signature of Grantor)

(Title)

Attest:

(Title)

(Seal)

(Signature of Trustee)

Attest:

(Title)

(Seal)

(2) The following is an example of the certification of acknowledgement which shall accompany the trust agreement for a standby trust fund as specified in Subsection R315-261-147(h).

State of

County of

On this (date), before me personally came (owner or operator) to me known, who, being by me duly sworn, did depose and say that she/he resides at (address), that she/he is (title) of (corporation), the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that she/he signed her/-his name thereto by like order.

(Signature of Notary Public)

R315-261-400. Emergency Preparedness and Response for Management of Excluded Hazardous Secondary Materials - Applicability.

The requirements of Sections R315-261-400, R315-261-410, R315-261-411, and R315-261-420 apply to those areas of an entity managing hazardous secondary materials excluded under Subsections R315-261-4(a)(23) [~~and/~~]or R315-261-4(a)(24) or both where hazardous secondary materials are generated or accumulated on[-]-site.

(a) A generator of hazardous secondary material, or an intermediate or reclamation facility, that accumulates 6000 kg or less of hazardous secondary material at any time shall comply with Sections R315-261-410 and R315-261-411.

(b) A generator of hazardous secondary material, or an intermediate or reclamation facility that accumulates more than 6000 kg of hazardous secondary material at any time shall comply with Sections R315-261-410 and R315-261-420.

R315-261-410. Emergency Preparedness and Response for Management of Excluded Hazardous Secondary Materials - Preparedness and Prevention.

(a) Maintenance and operation of facility. Facilities generating or accumulating hazardous secondary material shall be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non[-]sudden release of hazardous secondary materials or hazardous secondary material constituents to air, soil, or surface water [~~which~~]that could threaten human health or the environment.

(b) Required equipment. [~~All facilities~~]Each facility generating or accumulating hazardous secondary material shall be equipped with the [~~following~~]the items listed in Subsections R315-261-410(b)(1) through R315-261-410(b)(4), unless none of the hazards posed by hazardous secondary material handled at the facility could require a particular kind of equipment specified [~~below~~]in Subsections R315-261-410(b)(1) through R315-261-410(b)(4):

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

(2) A device, such as a telephone, immediately available at the scene of operations, or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or state or local emergency response teams;

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

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

(c) Testing and maintenance of equipment. [~~All~~]The facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, [~~where~~]if required, shall be tested and maintained as necessary to assure its proper operation in time of emergency.

(d) Access to communications or alarm system.

(1) [~~Whenever~~]If hazardous secondary material is being poured, mixed, spread, or otherwise handled, [~~all~~]the personnel involved in the operation shall have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required under Subsection R315-261-410(b).

(2) If there is ever just one employee on the premises while the facility is operating, [~~he~~]the employee shall have immediate access to a device, such as a telephone, immediately available at the scene of operation, or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required under Subsection R315-261-410(b).

(e) Required aisle space. The hazardous secondary material generator or an intermediate or reclamation facility shall maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

(f) Arrangements with local authorities.

(1) The hazardous secondary material generator or an intermediate or reclamation facility shall [~~attempt~~]try to make the [~~following~~]arrangements specified in Subsections R315-261-410(f)(1)(i) through R315-261-410(f)(1)(iv), as appropriate for the type of waste handled at [~~his~~]their facility and the potential need for the services of these organizations:

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

(ii) [~~Where~~]When more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;

(iii) Agreements with state emergency response teams, emergency response contractors, and equipment suppliers; and

(iv) Arrangements to familiarize local hospitals with the properties of hazardous secondary material handled at the facility and the types of injuries or illnesses [~~which~~]that could result from fires, explosions, or releases at the facility.

(2) [~~Where~~]If state or local authorities decline to enter into [~~such~~]these arrangements, the hazardous secondary material generator or an intermediate or reclamation facility shall document the refusal in the operating record.

R315-261-411. Emergency Preparedness and Response for Management of Excluded Hazardous Secondary Materials - Emergency Procedures for Facilities Generating or Accumulating 6000 Kg or Less of Hazardous Secondary Material.

A generator or an intermediate or reclamation facility that generates or accumulates 6000 kg or less of hazardous secondary material shall comply with the [~~following~~]requirements in Subsections R315-261-411(a) through R315-261-411(d):

(a) [~~At all times there shall~~]There shall always be at least one employee either on the premises or on call, [~~i.e.~~]that is, available to respond to an emergency by reaching the facility within a short period[~~of time~~], with the responsibility for coordinating [~~all~~]emergency response measures specified in Subsection R315-261-411(d). This employee is the emergency coordinator.

(b) The generator or intermediate or reclamation facility shall post the [~~following~~]information listed in Subsections R315-261-411(b)(1) through R315-261-411(b)(3) next to the telephone:

(1) The name and telephone number of the emergency coordinator;

(2) Location of fire extinguishers and spill control material, and, if present, fire alarm; and

(3) The telephone number of the fire department, unless the facility has a direct alarm.

(c) The generator or an intermediate or reclamation facility shall ensure that [~~all~~]employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies[~~;~~].

(d) The emergency coordinator or [~~his~~]the emergency coordinator's designee shall respond to any emergencies that arise. The applicable responses are as follows:

(1) In the event of a fire, call the fire department or [~~attempt~~]try to extinguish it using a fire extinguisher[~~;~~].

(2) In the event of a spill, contain the flow of hazardous waste to the extent possible, and as soon as is practicable, clean up the hazardous waste and any contaminated materials or soil[~~;~~].

(3) In the event of a fire, explosion, or other release [~~which~~]that could threaten human health outside the facility or [~~when~~]if the generator or an intermediate or reclamation facility has knowledge that a spill has reached surface water, the generator or an intermediate or reclamation facility operating under a verified recycler variance under Subsection R315-260-31(d) shall immediately notify the National Response Center, using their 24-hour toll free number 800[~~/~~]-424-8802.[~~and follow the requirements Section R315-263-33.~~] The report shall include the [~~following~~]information listed in Subsections R315-261-411(d)(3)(i) through R315-261-411(d)(3)(v):

(i) The name, address, and U.S. EPA Identification Number of the facility;

(ii) Date, time, and type of incident, [~~e.g.~~]for example, spill or fire;

(iii) Quantity and type of hazardous waste involved in the incident;

(iv) Extent of injuries, if any; and

(v) Estimated quantity and disposition of recovered materials, if any.

R315-261-420. Emergency Preparedness and Response for Management of Excluded Hazardous Secondary Materials - Contingency Planning and Emergency Procedures for Facilities Generating or Accumulating More Than 6000 Kg of Hazardous Secondary Material.

A generator or an intermediate or reclamation facility that generates or accumulates more than 6000 kg of hazardous secondary material shall comply with the [~~following~~]requirements in Subsections R315-261-420(a) through R315-261-420(g):

(a) Purpose and implementation of contingency plan.

(1) Each generator or an intermediate or reclamation facility that accumulates more than 6000 kg of hazardous secondary material shall have a contingency plan for [~~his~~]their facility. The contingency plan shall be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non[~~-~~]sudden release of hazardous secondary material or hazardous secondary material constituents to air, soil, or surface water.

(2) The provisions of the plan shall be carried out immediately [~~whenever~~]if there is a fire, explosion, or release of hazardous secondary material or hazardous secondary material constituents [~~which~~]that could threaten human health or the environment.

(b) Content of contingency plan.

(1) The contingency plan shall describe the actions facility personnel shall take to comply with Subsections R315-261-420(a) and R315-261-420(f) in response to fires, explosions, or any unplanned sudden or non[-]sudden release of hazardous secondary material or hazardous secondary material constituents to air, soil, or surface water at the facility.

(2) If the generator or an intermediate or reclamation facility accumulating more than 6000 kg of hazardous secondary material has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with 40 CFR 112, or [~~some~~]another emergency or contingency plan, [~~he~~]the generator need only amend that plan to incorporate hazardous waste management provisions that are [~~sufficient~~]enough to comply with the requirements of Rule R315-261. The hazardous secondary material generator or an intermediate or reclamation facility operating under a verified recycler variance under Subsection R315-260-13(d) may develop one contingency plan [~~which~~]that meets [~~all~~]the regulatory requirements. The [~~Director~~]director recommends that the plan be based on the National Response Team's Integrated Contingency Plan Guidance ("One Plan"). [~~When~~]If modifications are made to non-hazardous waste provisions in an integrated contingency plan, the changes do not trigger the need for a hazardous waste permit modification.

(3) The plan shall describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and [~~S~~]state and local emergency response teams to coordinate emergency services, pursuant to Subsection R315-261-410(f).

(4) The plan shall list names, addresses, and phone numbers, office and home, of [~~all~~]each person[~~s~~] qualified to act as emergency coordinator, see Subsection R315-261-420(e), and this list shall be kept up-to-date. [~~Where~~]If more than one person is listed, one shall be named as primary emergency coordinator and others shall be listed in the order [~~in which~~]that they shall assume responsibility as alternates.

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

(6) The plan shall include an evacuation plan for facility personnel [~~where~~]if there is a possibility that evacuation could be necessary. This plan shall describe signal[~~(~~]s[~~)~~] to be used to begin evacuation, evacuation routes, and alternate evacuation routes, in cases where the primary routes could be blocked by releases of hazardous waste or fires.

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

(1) [~~M~~]maintained at the facility; and

(2) [~~S~~]submitted to [~~all~~]each local police department[~~s~~], fire department[~~s~~], hospital[~~s~~], and [~~S~~]state and local emergency response team[~~s~~] that may be called upon to provide emergency services.

(d) Amendment of contingency plan. The contingency plan shall be reviewed, and immediately amended, if necessary, [~~whenever~~]if:

(1) [~~A~~]applicable [~~regulations~~]rules are revised;

(2) [~~T~~]the plan fails in an emergency;

(3) [~~T~~]the facility changes-in its design, construction, operation, maintenance, or other circumstances-in a way that materially increases the potential for fires, explosions, or releases of hazardous secondary material or hazardous secondary material constituents, or changes the response necessary in an emergency;

(4) [~~T~~]the list of emergency coordinators changes; or

(5) [~~T~~]the list of emergency equipment changes.

(e) Emergency coordinator. [~~At all times, there shall~~]There shall always be at least one employee either on the facility premises or on call, [~~i.e.~~]that is, available to respond to an emergency by reaching the facility within a short period[~~- of time~~], with the responsibility for coordinating [~~all~~]emergency response measures. This emergency coordinator shall be thoroughly familiar with [~~all~~]the aspects of the facility's contingency plan, [~~all~~]the operations and activities at the facility, the location and characteristics of hazardous secondary material handled, the location of [~~all~~]records within the facility, and the facility layout. In addition, this person shall have the authority to commit the resources needed to carry out the contingency plan. The emergency coordinator's responsibilities are more fully spelled out in Subsection R315-261-420(f). Applicable responsibilities for the emergency coordinator vary, depending on factors such as type and variety of hazardous secondary material[~~(~~]s[~~)~~] handled by the facility, and type and complexity of the facility.

(f) Emergency procedures.

(1) [~~Whenever~~]If there is an imminent or actual emergency situation, the emergency coordinator, or [~~his~~]the emergency coordinator's designee [~~when~~]if the emergency coordinator is on call, shall immediately:

(i) [~~A~~]activate internal facility alarms or communication systems, [~~where~~]if applicable, to notify [~~all~~]the facility personnel; and

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

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

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

(4) If the emergency coordinator determines that the facility has had a release, fire, or explosion [~~which~~]that could threaten human health, or the environment, outside the facility, [~~he~~]the emergency coordinator shall report [~~his~~]their findings as follows:

(i) If [~~his~~]the emergency coordinator's assessment [~~indicates~~]shows that evacuation of local areas may be advisable, the emergency coordinator shall immediately notify appropriate local authorities. The emergency coordinator shall be available to help appropriate officials decide whether local areas should be evacuated; and

(ii) The emergency coordinator shall immediately notify the Utah Department of Environmental Quality 24 hour answering service at 801[~~/~~]-536-4123, and the National Response Center, using their 24-hour toll free number 800[~~/~~]-424-8802. The report shall include:

(A) [~~N~~]name and telephone number of reporter;
(B) [~~N~~]name and address of facility;
(C) [~~T~~]time and type of incident, [~~e.g.~~]for example, release, fire;
(D) [~~N~~]name and quantity of material[~~(~~]s[~~)~~] involved, to the extent known;
(E) [~~T~~]the extent of injuries, if any; and
(F) [~~T~~]the possible hazards to human health, or the environment, outside the facility.

(5) During an emergency, the emergency coordinator shall take [~~all~~]any reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other hazardous secondary material at the facility. These measures shall include, [~~where~~]if applicable, stopping processes and operations, collecting and containing released material, and removing or isolating containers.

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

(7) Immediately after an emergency, the emergency coordinator shall provide for treating, storing, or disposing of recovered secondary material, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility. Unless the hazardous secondary material generator can demonstrate, in accordance with Subsection[~~s~~] R315-261-3(c) or R315-261-3(d), that the recovered material is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and shall manage it in accordance with [~~all~~]the applicable requirements of Rules R315-262, R315-263, and R315-265.

(8) The emergency coordinator shall ensure that, in the affected area[~~(~~]s[~~)~~] of the facility:

(i) [~~N~~]no secondary material that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are [~~completed~~]finished; and

(ii) [~~All~~]the emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

(9) The hazardous secondary material generator shall note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, [~~he~~]the hazardous secondary material generator shall submit a written report on the incident to the [~~Director~~]director. The report shall include:

(i) [~~N~~]name, address, and telephone number of the hazardous secondary material generator;
(ii) [~~N~~]name, address, and telephone number of the facility;
(iii) [~~D~~]date, time, and type of incident, [~~e.g.~~]for example, fire, explosion;
(iv) [~~N~~]name and quantity of material[~~(~~]s[~~)~~] involved;
(v) [~~T~~]the extent of injuries, if any;
(vi) [~~A~~]an assessment of actual or potential hazards to human health or the environment, [~~where~~]if this applies[~~is applicable~~]; and
(vii) [~~E~~]estimated quantity and disposition of recovered material that resulted from the incident.

(g) Personnel training. [~~All~~]Each employee[~~s must~~] shall be thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies.

R315-261-1033. Air Emission Standards for Process Vents - Closed-Vent Systems and Control Devices.

(a)(1) The remanufacturer or other person that stores or treats the hazardous secondary materials in hazardous secondary material management units using closed-vent systems and control devices used to comply with [~~provisions of~~]Rule R315-261 shall comply with [~~the provisions of~~]Section[~~s~~] R315-261-1033.

(2) Reserved

(b) A control device involving vapor recovery, [~~e.g.~~]for example, a condenser or adsorber, shall be designed and operated to recover the organic vapors vented to it with an efficiency of 95 weight percent or greater unless the total organic emission limits of Subsection R315-261-1032(a)(1) for [~~all~~]the affected process vents can be attained at an efficiency less than 95 weight percent.

(c) An enclosed combustion device, [~~e.g.~~]for example, a vapor incinerator, boiler, or process heater, shall be designed and operated to reduce the organic emissions vented to it by 95 weight percent or greater; to achieve a total organic compound concentration of 20 ppmv, expressed as the sum of the actual compounds, not carbon equivalents, on a dry basis corrected to 3% [~~percent~~]oxygen; or to provide a minimum residence time of 0.50 seconds at a minimum temperature of 760 deg. C. If a boiler or process heater is used as the control device, then the vent stream shall be introduced into the flame zone of the boiler or process heater.

(d)(1) A flare shall be designed for and operated with no visible emissions as determined by the methods specified in Subsection R315-261-1033(e)(1), except for periods not to exceed a total of [~~5~~]five minutes during any [~~2~~]two consecutive hours.

(2) A flare shall be operated with a flame always present[~~- at all times~~], as determined by the methods specified in Subsection R315-261-1033(f)(2)(iii).

(3) A flare shall be used only if the net heating value of the gas being combusted is 11.2 MJ/scm, [~~(~~]300 Btu/scf[~~)~~], or greater if the flare is steam-assisted or air-assisted; or if the net heating value of the gas being combusted is 7.45 MJ/scm, [~~(~~]200 Btu/scf[~~)~~], or greater if the flare is nonassisted. The net heating value of the gas being combusted shall be determined by the methods specified in Subsection R315-261-1033(e)(2).

(4)(i) A steam-assisted or nonassisted flare shall be designed for and operated with an exit velocity, as determined by the methods specified in Subsection R315-261-1033(e)(3), less than 18.3 m/s, [~~(~~]60 ft/s[~~)~~], except as provided in Subsections R315-261-1033(d)(4)(ii) and R315-261-1033(d)(4)(iii).

(ii) A steam-assisted or nonassisted flare designed for and operated with an exit velocity, as determined by the methods specified in Subsection R315-261-1033(e)(3), equal to or greater than 18.3 m/s, [~~(~~]60 ft/s[~~)~~], but less than 122 m/s, [~~(~~]400 ft/s[~~)~~], is allowed if the net heating value of the gas being combusted is greater than 37.3 MJ/scm, [~~(~~]1,000 Btu/scf[~~)~~].

(iii) A steam-assisted or nonassisted flare designed for and operated with an exit velocity, as determined by the methods specified in Subsection R315-261-1033(e)(3), less than the velocity, V_{max}, as determined by the method specified in Subsection R315-261-1033(e)(4) and less than 122 m/s, [~~(~~]400 ft/s[~~)~~] is allowed.

(5) An air-assisted flare shall be designed and operated with an exit velocity less than the velocity, V_{max}, as determined by the method specified in Subsection R315-261-1033(e)(5).

(6) A flare used to comply with Section R315-261-1033 shall be steam-assisted, air-assisted, or nonassisted.

(e)(1) Reference Method 22 in 40 CFR part 60 shall be used to determine the compliance of a flare with the visible emission [~~provisions~~]requirements of Sections R315-261-1030 through R315-261-1035. The observation period is [~~2~~]two hours and shall be used according to Method 22.

(2) The net heating value of the gas being combusted in a flare shall be calculated using the [~~following equation: The~~]equation found in 40 CFR261.1033(e)(2) 2015 ed is [~~adopted and~~]incorporated by reference.

Where:

H_T = Net heating value of the sample, MJ/scm; where the net enthalpy per mole of offgas is based on combustion at 25 degrees C and 760 mm Hg, but the standard temperature for determining the volume corresponding to 1 mol is 20 degrees C;

K = Constant, 1.74 H $10^{[-7]}$, [~~(~~]1/ppm[~~)~~], [~~(~~]g mol/scm[~~)~~], [~~(~~]MJ/kcal[~~)~~], where standard temperature for [~~(~~]g mol/scm[~~)~~] is 20 deg. C;

C_i = Concentration of sample component i in ppm on a wet basis, as measured for organics by Reference Method 18 in 40 CFR part 60 and measured for hydrogen and carbon monoxide by ASTM D 1946-82, incorporated by reference as specified in Section R315-260-11; and

H_i = Net heat of combustion of sample component i, kcal/9 mol at 25 degrees C and 760 mm Hg. The heats of combustion may be determined using ASTM D 2382-83, incorporated by reference as specified in Section R315-260-11, if published values are not available or cannot be calculated.

(3) The actual exit velocity of a flare shall be determined by dividing the volumetric flow rate, in units of standard temperature and pressure, as determined by Reference Methods 2, 2A, 2C, or 2D in 40 CFR part 60 as appropriate, by the unobstructed , free, cross-sectional area of the flare tip.

(4) The maximum allowed velocity in m/s, V_{max}, for a flare complying with Subsection R315-261-1033(d)(4)(iii) shall be determined by the following equation:

$Log_{10}(V_{max}) = (H_T + 28.8)/31.7$

Where:

28.8 = Constant[~~,~~];

31.7 = Constant[~~,~~];

H_T = The net heating value as determined in Subsection R315-261-1033(e)(2).

(5) The maximum allowed velocity in m/s, V_{max}, for an air-assisted flare shall be determined by the following equation:

$V_{max} = 8.706 + 0.7084 (H_T)$

Where:

8.706 = Constant[~~,~~];

0.7084 = Constant[~~,~~];

H_T = The net heating value as determined in Subsection R315-261-1033(e)(2).

(f) The remanufacturer or other person that stores or treats the hazardous secondary material shall monitor and inspect each control device required to comply with Section R315-261-1033 to ensure proper operation and maintenance of the control device by implementing the [~~following~~]requirements in Subsections R315-261-1033(f)(1) through R315-261-1033(f)(3):

(1) Install, calibrate, maintain, and operate according to the manufacturer's specifications a flow indicator that provides a record of vent stream flow from each affected process vent to the control device at least once [~~every~~]each hour. The flow indicator sensor shall be installed in the vent stream at the nearest feasible point to the control device inlet but before the point [~~at which~~]that the vent streams are combined.

(2) Install, calibrate, maintain, and operate according to the manufacturer's specifications a device to continuously monitor control device operation as specified [~~below~~]in Subsections R315-261-1033(f)(2)(i) through R315-261-1033(f)(2)(vii):

(i) For a thermal vapor incinerator, a temperature monitoring device equipped with a continuous recorder. The device shall have an accuracy of plus[~~/~~] or minus 1% [~~percent~~]of the temperature being monitored in degrees C or plus[~~/~~] or minus 0.5 degrees C, whichever is greater. The temperature sensor shall be installed at a location in the combustion chamber downstream of the combustion zone.

(ii) For a catalytic vapor incinerator, a temperature monitoring device equipped with a continuous recorder. The device shall be capable of monitoring temperature at two locations and have an accuracy of plus[~~/~~] or minus 1% [~~percent~~]of the temperature being monitored in degrees C or plus[~~/~~] or minus 0.5 degrees C, whichever is greater. One temperature sensor shall be installed in the vent stream at the nearest feasible point to the catalyst bed inlet and a second temperature sensor shall be installed in the vent stream at the nearest feasible point to the catalyst bed outlet.

(iii) For a flare, a heat sensing monitoring device equipped with a continuous recorder that [~~indicates~~]shows the continuous ignition of the pilot flame.

(iv) For a boiler or process heater having a design heat input capacity less than 44 MW, a temperature monitoring device equipped with a continuous recorder. The device shall have an accuracy of plus[~~/~~] or minus 1% [~~percent~~]of the temperature being monitored in degrees C or plus[~~/~~] or minus 0.5 degrees C, whichever is greater. The temperature sensor shall be installed at a location in the furnace downstream of the combustion zone.

(v) For a boiler or process heater having a design heat input capacity greater than or equal to 44 MW, a monitoring device equipped with a continuous recorder to measure a parameter[~~(~~]s[~~)~~] that [~~indicates~~]shows good combustion operating practices are being used.

(vi) For a condenser, either:

(A) [~~A~~]a monitoring device equipped with a continuous recorder to measure the concentration level of the organic compounds in the exhaust vent stream from the condenser[~~,~~]; or

(B) [~~A~~]a temperature monitoring device equipped with a continuous recorder. The device shall be capable of monitoring temperature with an accuracy of plus[~~/~~] or minus 1% [~~percent~~]of the temperature being monitored in degrees Celsius, [~~(~~]deg. C[~~)~~], or plus[~~/~~] or minus 0.5 deg. C, whichever is greater. The temperature sensor shall be installed at a location in the exhaust vent stream from the condenser exit, [~~i.e.~~]that is, product side.

(vii) For a carbon adsorption system that regenerates the carbon bed directly in the control device such as a fixed-bed carbon adsorber, either:

(A) [~~A~~]a monitoring device equipped with a continuous recorder to measure the concentration level of the organic compounds in the exhaust vent stream from the carbon bed[~~,~~]; or

(B) [~~A~~]a monitoring device equipped with a continuous recorder to measure a parameter that [~~indicates~~]shows the carbon bed is regenerated on a regular, predetermined time cycle.

(3) Inspect the readings from each monitoring device required by Subsections R315-261-1033(f)(1) and R315-261-1033(f)(2) at least once each operating day to check control device operation and, if necessary, immediately implement the corrective measures necessary to ensure the control device operates in compliance with the requirements of Section R315-261-1033.

(g) A remanufacturer or other person that stores or treats hazardous secondary material in a hazardous secondary material management unit using a carbon adsorption system such as a fixed-bed carbon adsorber that regenerates the carbon bed directly onsite in the control device shall replace the existing carbon in the control device with fresh carbon at a regular, predetermined time interval that is no longer than the carbon service life established as a requirement of Subsection R315-261-1035(b)(4)(iii)(F).

(h) A remanufacturer or other person that stores or treats hazardous secondary material in a hazardous secondary material management unit using a carbon adsorption system such as a carbon canister that does not regenerate the carbon bed directly onsite in the control device shall replace the existing carbon in the control device with fresh carbon on a regular basis by using one of the[~~following~~] procedures in Subsections R315-261-1033(h)(1) through R315-261-1033(h)(2):

(1) Monitor the concentration level of the organic compounds in the exhaust vent stream from the carbon adsorption system on a regular schedule, and replace the existing carbon with fresh carbon immediately [~~when~~]if carbon breakthrough is indicated. The monitoring frequency shall be daily or at an interval no greater than 20% [~~percent~~]of the time required to consume the total carbon working capacity established as a requirement of Subsection R315-261-1035(b)(4)(iii)(G), whichever is longer.

(2) Replace the existing carbon with fresh carbon at a regular, predetermined time interval that is less than the design carbon replacement interval established as a requirement of Subsection R315-261-1035(b)(4)(iii)(G).

(i) An alternative operational or process parameter may be monitored if it can be demonstrated that another parameter shall ensure that the control device is operated in conformance with these standards and the control device's design specifications.

(j) A remanufacturer or other person that stores or treats hazardous secondary material at an affected facility seeking to comply with [~~the provisions of~~]Rule R315-261 by using a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system [~~is required to~~]shall develop documentation including [~~sufficient~~]enough information to describe the control device operation and identify the process parameter or parameters that [~~indicate~~]show proper operation and maintenance of the control device.

(k) A closed-vent system shall meet either of the [~~following~~]design requirements in Subsection R315-261-1033(k)(1) or R315-261-1033(k)(2):

(1) A closed-vent system shall be designed to operate with no detectable emissions, as [~~indicated~~]shown by an instrument reading of less than 500 ppmv above background as determined by the procedure in Subsection R315-261-1034(b), and by visual inspections; or

(2) A closed-vent system shall be designed to operate at a pressure below atmospheric pressure. The system shall be equipped with at least one pressure gauge or other pressure measurement device that can be read from a readily accessible location to verify that negative pressure is being maintained in the closed-vent system [~~when~~]if the control device is operating.

(l) The remanufacturer or other person that stores or treats the hazardous secondary material shall monitor and inspect each closed-vent system required to comply with Section R315-261-1033 to ensure proper operation and maintenance of the closed-vent system by implementing the [~~following~~]requirements in Subsections R315-261-1033(l)(1) through R315-261-1033(l)(3):

(1) Each closed-vent system that is used to comply with Subsection R315-261-1033(k)(1) shall be inspected and monitored in accordance with the [~~following~~]requirements in Subsections R315-261-1033(l)(1)(i) through R315-261-1033(l)(1)(iv):

(i) An initial leak detection monitoring of the closed-vent system shall be conducted by the remanufacturer or other person that stores or treats the hazardous secondary material on or before the date that the system becomes subject to Section R315-261-1033. The remanufacturer or other person that stores or treats the hazardous secondary material shall monitor the closed-vent system components and connections using the procedures specified in Subsection R315-261-1034(b) to demonstrate that the closed-vent system operates with no detectable emissions, as [~~indicated~~]shown by an instrument reading of less than 500 ppmv above background.

(ii) After initial leak detection monitoring required in Subsection R315-261-1033(l)(1)(i), the remanufacturer or other person that stores or treats the hazardous secondary material shall inspect and monitor the closed-vent system as follows:

(A) Closed-vent system joints, seams, or other connections that are permanently or semi-permanently sealed, [~~e.g.~~]for example, a welded joint between two sections of hard piping or a bolted and gasketed ducting flange, shall be visually inspected at least once per year to check for defects that could result in air pollutant emissions. The remanufacturer or other person that stores or treats the hazardous secondary material shall monitor a component or connection using the procedures specified in Subsection R315-261-1034(b) to demonstrate that it operates with no detectable emissions following any time the component is repaired or replaced, [~~e.g.~~]for example, a section of damaged hard piping is replaced with new hard piping, or the connection is unsealed, [~~e.g.~~]for example, a flange is unbolted.

(B) Closed-vent system components or connections other than those specified in Subsection R315-261-1033(l)(1)(ii)(A) shall be monitored annually and at other times as requested by the [~~Director~~]director, except as provided for in Subsection R315-261-1033(o), using the procedures specified in Subsection R315-261-1034(b) to demonstrate that the components or connections operate with no detectable emissions.

(iii) In the event that a defect or leak is detected, the remanufacturer or other person that stores or treats the hazardous secondary material shall repair the defect or leak in accordance with the requirements of Subsection R315-261-1033(l)(3).

(iv) The remanufacturer or other person that stores or treats the hazardous secondary material shall maintain a record of the inspection and monitoring in accordance with the requirements specified in Section R315-261-1035.

(2) Each closed-vent system that is used to comply with Subsection R315-261-1033(k)(2) shall be inspected and monitored in accordance with the [~~following~~]requirements in Subsections R315-251-1033(l)(2)(i) through R315-261-1033(l)(2)(iv):

(i) The closed-vent system shall be visually inspected by the remanufacturer or other person that stores or treats the hazardous secondary material to check for defects that could result in air pollutant emissions. Defects include[~~, but are not limited to,~~] visible cracks, holes, or gaps in ductwork or piping or loose connections.

(ii) The remanufacturer or other person that stores or treats the hazardous secondary material shall perform an initial inspection of the closed-vent system on or before the date that the system becomes subject to Section R315-261-1033. Thereafter, the remanufacturer or other person that stores or treats the hazardous secondary material shall perform the inspections at least once [~~every~~]each year.

(iii) In the event that a defect or leak is detected, the remanufacturer or other person that stores or treats the hazardous secondary material shall repair the defect in accordance with the requirements of Subsection R315-261-1033(l)(3).

(iv) The remanufacturer or other person that stores or treats the hazardous secondary material shall maintain a record of the inspection and monitoring in accordance with the requirements specified in Section R315-261-1035.

(3) The remanufacturer or other person that stores or treats the hazardous secondary material shall repair [~~all~~]the detected defects [~~as follows~~]in accordance with Subsections R315-261-1033(l)(3)(i) through R315-261-1033(l)(3)(iv):

(i) Detectable emissions, as [~~indicated~~]shown by visual inspection, or by an instrument reading greater than 500 ppmv above background, shall be controlled as soon as practicable, but [~~not later than~~]before 15 calendar days after the emission is detected, except as provided for in Subsection R315-261-1033(l)(3)(iii).

(ii) A first attempt at repair shall be made no later than [~~5~~]five calendar days after the emission is detected.

(iii) Delay of repair of a closed-vent system [~~for which~~]where leaks have been detected is allowed if the repair is technically infeasible without a process unit shutdown, or if the remanufacturer or other person that stores or treats the hazardous secondary material determines that emissions resulting from immediate repair would be greater than the fugitive emissions likely to result from delay of repair. Repair of [~~such~~]the equipment shall be [~~completed~~]finished by the end of the next process unit shutdown.

(iv) The remanufacturer or other person that stores or treats the hazardous secondary material shall maintain a record of the defect repair in accordance with the requirements specified in Section R315-261-1035.

(m) Closed-vent systems and control devices used to comply with [~~provisions of~~]Sections R315-261-1030 through R315-261-1035 shall be always be operated[~~, at all times~~] when emissions may be vented to them.

(n) The owner or operator using a carbon adsorption system to control air pollutant emissions shall document that [~~all~~]any carbon that is a hazardous waste and that is removed from the control device is managed in [~~one of the following manners~~]in accordance with Subsection R315-261-1033(n)(1), R315-261-1033(n)(2), or R315-261-1033(n)(3), regardless of the average volatile organic concentration of the carbon:

(1) Regenerated or reactivated in a thermal treatment unit that meets one of the [~~following~~]requirements in Subsections R315-261-1033(n)(1)(i) through R315-261-1033(n)(1)(iii):

(i) The owner or operator of the unit has been issued a final permit under Rule R315-270 [~~which~~]that implements the requirements of Sections R315-264-600 through R315-264-603; or

(ii) The unit is equipped with and operating air emission controls in accordance with the applicable requirements of Sections R315-261-1030 through R315-261-1035 and R315-261-1080 through R315-261-1089 or [~~subparts AA and CC of 40 CFR 265 which is incorporated in~~]R315-265-1030 through R315-265-1035 and R315-265-1080 through R315-265-1090; or

(iii) The unit is equipped with and operating air emission controls in accordance with a national emission standard for hazardous air pollutants under 40 CFR part 61 or 40 CFR part 63.

(2) Incinerated in a hazardous waste incinerator [~~for which~~]that the owner or operator either:

(i) [~~H~~]has been issued a final permit under Rule R315-270 [~~which~~]that implements the requirements of Sections R315-264-340 through R315-264-351; or

(ii) [~~H~~]has designed and operates the incinerator in accordance with the interim status requirements of [~~40 CFR part 265, subpart O, which is incorporated by Rule R315-265~~]Sections R315-265-340 through R315-265-352.

(3) Burned in a boiler or industrial furnace [~~for which~~]that the owner or operator either:

(i) [~~H~~]has been issued a final permit under Rule R315-270 [~~which~~]that implements the requirements of Sections R315-266-100 through R315-266-112; or

(ii) [~~H~~]has designed and operates the boiler or industrial furnace in accordance with the interim status requirements of Sections R315-266-100 through R315-266-112.

(o) Any components of a closed-vent system that are designated, as described in Subsection R315-261-1035(c)(9), as unsafe to monitor are exempt from the requirements of Subsection R315-261-1033(l)(1)(ii)(B) if:

(1) [~~T~~]the remanufacturer or other person that stores or treats the hazardous secondary material in a hazardous secondary material management unit using a closed-vent system determines that the components of the closed-vent system are unsafe to monitor because

monitoring personnel would be exposed to an immediate danger as a [~~consequence~~]result of complying with Subsection R315-261-1033(l)(1)(ii)(B); and

(2) [~~T~~]the remanufacturer or other person that stores or treats the hazardous secondary material in a hazardous secondary material management unit using a closed-vent system adheres to a written plan that requires monitoring the closed-vent system components using the procedure specified in Subsection R315-261-1033(l)(1)(ii)(B) as [~~frequently~~]often as practicable during safe-to-monitor times.

R315-261-1083. Air Emission Standards for Tanks and Containers - Material Determination Procedures.

(a) Material determination procedure to determine average volatile organic (VO) concentration of a hazardous secondary material at the point of material origination.

(1) Determining average VO concentration at the point of material origination. A remanufacturer or other person that stores or treats the hazardous secondary material shall determine the average VO concentration at the point of material origination for each hazardous secondary material placed in a hazardous secondary material management unit exempted under [~~the provisions of~~]Subsection R315-261-1082(c)[~~(1)~~] from using air emission controls in accordance with standards specified in Sections R315-261-1084 through R315-261-1087, as applicable to the hazardous secondary material management unit.

(i) An initial determination of the average VO concentration of the material stream shall be made before the first time any portion of the material in the hazardous secondary material stream is placed in a hazardous secondary material management unit exempted under [~~the provisions of~~]Subsection R315-261-1082(c)[~~(1)~~] from using air emission controls, and thereafter an initial determination of the average VO concentration of the material stream shall be made for each averaging period that a hazardous secondary material is managed in the unit; and

(ii) Perform a new material determination [~~whenever~~]if changes to the source generating the material stream are reasonably likely to cause the average VO concentration of the hazardous secondary material to increase to a level that is equal to or greater than the applicable VO concentration limits specified in Section R315-261-1082.

(2) Determination of average VO concentration using direct measurement or knowledge. For a material determination that is required by Subsection R315-261-1083(a)(1), the average VO concentration of a hazardous secondary material at the point of material origination shall be determined using either direct measurement as specified in Subsection R315-261-1083(a)(3) or by knowledge as specified in Subsection R315-261-1083(a)(4).

(3) Direct measurement to determine average VO concentration of a hazardous secondary material at the point of material origination.

(i) Identification. The remanufacturer or other person that stores or treats the hazardous secondary material shall identify and record in a log that is kept at the facility the point of material origination for the hazardous secondary material.

(ii) Sampling. Samples of the hazardous secondary material stream shall be collected at the point of material origination in a manner [~~such~~]that minimizes volatilization of organics contained in the material and in the subsequent sample[~~is minimized~~] and an adequately representative sample is collected and maintained for analysis by the selected method.

(A) The averaging period to be used for determining the average VO concentration for the hazardous secondary material stream on a mass-weighted average basis shall be designated and recorded. The averaging period can represent any time interval that the remanufacturer or other person that stores or treats the hazardous secondary material determines is appropriate for the hazardous secondary material stream but [~~shall~~]may not exceed 1 year.

(B) [~~A sufficient number of~~]Enough samples, but no less than four samples, shall be collected and analyzed for a hazardous secondary material determination. [~~All~~]Each of the samples for a given material determination shall be collected within a one-hour period. The average of the four or more sample results constitutes a material determination for the material stream. One or more material determinations may be required to represent the complete range of material compositions and quantities that occur during the entire averaging period due to normal variations in the operating conditions for the source or process generating the hazardous secondary material stream. Examples of [~~such~~]the normal variations are seasonal variations in material quantity or fluctuations in ambient temperature.

(C) [~~All~~]Each sample[~~s~~] shall be collected and handled in accordance with written procedures prepared by the remanufacturer or other person that stores or treats the hazardous secondary material and documented in a site sampling plan. This plan shall describe the procedure [~~by which~~]used to collect representative samples of the hazardous secondary material stream [~~are collected such~~]so that a minimum loss of organics occurs throughout the sample collection and handling process[~~,~~] and [~~by which~~]sample integrity is maintained. A copy of the written sampling plan shall be maintained at the facility. An example of acceptable sample collection and handling procedures for a total volatile organic constituent concentration may be found in Method 25D in 40 CFR part 60, appendix A.

(D) [~~Sufficient~~]Enough information, as specified in the [~~"~~]site sampling plan[~~"~~] required under Subsection R315-261-1083(a)(3)(ii)(C), shall be prepared and recorded to document the material quantity represented by the samples and, as applicable, the operating conditions for the source or process generating the hazardous secondary material represented by the samples.

(iii) Analysis. Each collected sample shall be prepared and analyzed in accordance with Method 25D in 40 CFR part 60, appendix A for the total concentration of volatile organic constituents, or using one or more methods [~~when~~]if the individual organic compound concentrations are identified and summed and the summed material concentration accounts for and reflects [~~all~~]the organic compounds in the material with Henry's law constant values at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase, [~~(~~]0.1 Y/X[~~)~~], which can also be expressed as 1.8 H $10^{[+]-6}$atmospheres/gram-mole/m^3, at 25 deg. Celsius. At the discretion of the remanufacturer or other person that stores or treats the hazardous secondary material, the test data [~~obtained~~]received may be adjusted by any appropriate method to discount any contribution to the total volatile organic concentration that is a result of including a compound with a Henry's law constant value of less than 0.1 Y/X at 25 deg. Celsius. To adjust these data, the measured concentration of each individual chemical constituent contained in the material is multiplied by the appropriate constituent-specific adjustment factor (f_{m25D}). If the remanufacturer or other person that stores or treats the hazardous secondary material elects to adjust the test data, the adjustment shall be made to [~~all~~]the individual chemical constituents with a Henry's law constant value greater than or equal to 0.1 Y/X at 25 degrees Celsius contained in the material. Constituent-specific adjustment factors, [~~(~~]f_{m25D}[~~)~~], can be [~~obtained~~]received by contacting the Waste and Chemical Processes Group, Office of Air Quality Planning

and Standards, Research Triangle Park, NC 27711. Other test methods may be used if they meet the requirements in Subsection R315-261-1083(a)(3)(iii)(A) or R315-261-1083(a)(3)(iii)(B) and provided the requirement to reflect [~~all~~]any organic compounds in the material with Henry's law constant values greater than or equal to 0.1 Y/X, which can also be expressed as 1.8 H 10[~~+~~]-6atmospheres/gram-mole/m^3, at 25 deg. Celsius, is met.

(A) Any EPA standard method that has been validated in accordance with "Alternative Validation Procedure for EPA Waste and Wastewater Methods," 40 CFR part 63, appendix D.

(B) Any other analysis method that has been validated in accordance with the procedures specified in Section 5.1 or Section 5.3, and the corresponding calculations in Section 6.1 or Section 6.3, of Method 301 in 40 CFR part 63, appendix A. The data are acceptable if they meet the criteria specified in Section 6.1.5 or Section 6.3.3 of Method 301. If correction is required under section 6.3.3 of Method 301, the data are acceptable if the correction factor is within the range 0.7 to 1.30. Other sections of Method 301 are not required.

(iv) Calculations.

(A) The average VO concentration (C) on a mass-weighted basis shall be calculated by using the results for [~~all~~]the material determinations conducted in accordance with Subsections R315-261-1083(a)(3)(ii) and R315-261-1083(a)(3)(iii) and the [~~following equation: The~~]equation found in 40 CFR 261.1083(a)(3)(iv)(A), 2015 ed.[-] is [~~adopted and~~]incorporated by reference.

Where:

C = Average VO concentration of the hazardous secondary material at the point of material origination on a mass-weighted basis, ppmw.

i = Individual material determination "i" of the hazardous secondary material.

n = Total number of material determinations of the hazardous secondary material conducted for the averaging period, [~~(~~]not to exceed 1 year[~~)~~].

Q_i = Mass quantity of hazardous secondary material stream represented by C_i, kg/hr.

Q_T = Total mass quantity of hazardous secondary material during the averaging period, kg/hr.

C_i = Measured VO concentration of material determination "i" as determined in accordance with the requirements of Subsection R315-261-1083(a)(3)(iii), [~~i.e.~~]that is, the average of the four or more samples specified in Subsection R315-261-1083(a)(3)(ii)(B), ppmw.

(B) [~~For the purpose of determining~~]To determine C_i, for individual material samples analyzed in accordance with Subsection R315-261-1083(a)(3)(iii), the remanufacturer or other person that stores or treats the hazardous secondary material shall account for VO concentrations determined to be below the limit of detection of the analytical method by using the [~~following~~]VO concentration specified in Subsection R315-261-1083(a)(3)(iv)(B)(I) or R315-261-1083(a)(3)(iv)(B)(II):

(I) If Method 25D in 40 CFR part 60, appendix A is used for the analysis, one-half the blank value determined in the method at section 4.4 of Method 25D in 40 CFR part 60, appendix A.

(II) If any other analytical method is used, one-half the sum of the limits of detection established for each organic constituent in the material that has a Henry's law constant values at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in-the-liquid-phase, [~~(~~]0.1 Y/X[~~)~~], which can also be expressed as 1.8 H 10[~~+~~]-6atmospheres/gram-mole/m^3, at 25 degrees Celsius.

(4) Use of knowledge by the remanufacturer or other person that stores or treats the hazardous secondary material to determine average VO concentration of a hazardous secondary material at the point of material origination.

(i) Documentation shall be prepared that presents the information used as the basis for the knowledge by the remanufacturer or other person that stores or treats the hazardous secondary material of the hazardous secondary material stream's average VO concentration. Examples of information that may be used as the basis for knowledge include: Material balances for the source or process generating the hazardous secondary material stream; constituent-specific chemical test data for the hazardous secondary material stream from previous testing that are still applicable to the current material stream; previous test data for other locations managing the same type of material stream; or other knowledge based on information included in shipping papers or material certification notices.

(ii) If test data are used as the basis for knowledge, then the remanufacturer or other person that stores or treats the hazardous secondary material shall document the test method, sampling protocol, and the means used to account for[~~ by which~~] sampling variability and analytical variability[~~ are accounted for~~] in the determination of the average VO concentration. For example, a remanufacturer or other person that stores or treats the hazardous secondary material may use organic concentration test data for the hazardous secondary material stream that are validated in accordance with Method 301 in 40 CFR part 63, appendix A as the basis for knowledge of the material.

(iii) A remanufacturer or other person that stores or treats the hazardous secondary material using chemical constituent-specific concentration test data as the basis for knowledge of the hazardous secondary material may adjust the test data to the corresponding average VO concentration value [~~which~~]that would have been [~~obtained~~]received had the material samples been analyzed using Method 25D in 40 CFR part 60, appendix A. To adjust these data, the measured concentration for each individual chemical constituent contained in the material is multiplied by the appropriate constituent-specific adjustment factor, [~~(~~]f_{m25D}[~~)~~].

(iv) In the event that the [~~Director~~]director and the remanufacture or other person that stores or treats the hazardous secondary material disagree on a determination of the average VO concentration for a hazardous secondary material stream using knowledge, then the results from a determination of average VO concentration using direct measurement as specified in Subsection R315-261-1083(a)(3) shall be used to establish compliance with the applicable requirements of Sections R315-261-1080 through R315-261-1089. The [~~Director~~]director may perform or request that the remanufacturer or other person that stores or treats the hazardous secondary material perform this determination using direct measurement. The remanufacturer or other person that stores or treats the hazardous secondary material may choose one or more appropriate methods to analyze each collected sample in accordance with the requirements of Subsection R315-261-1083(a)(3)(iii).

(b) Reserved

(c) Procedure to determine the maximum organic vapor pressure of a hazardous secondary material in a tank.

(1) A remanufacturer or other person that stores or treats the hazardous secondary material shall determine the maximum organic vapor pressure for each hazardous secondary material placed in a tank using Tank Level 1 controls in accordance with standards specified in Subsection R315-261-1084(c).

(2) A remanufacturer or other person that stores or treats the hazardous secondary material shall use either direct measurement as specified in Subsection R315-261-1083(c)(3) or knowledge of the waste as specified by Subsection R315-261-1083(c)(4) to determine the maximum organic vapor pressure [~~which~~]that is representative of the hazardous secondary material composition stored or treated in the tank.

(3) Direct measurement to determine the maximum organic vapor pressure of a hazardous secondary material.

(i) Sampling. [~~A sufficient number of~~]Enough samples shall be collected to be representative of the hazardous secondary material contained in the tank. [~~All~~]The samples shall be collected and handled in accordance with written procedures prepared by the remanufacturer or other person that stores or treats the hazardous secondary material and documented in a site sampling plan. This plan shall describe the procedure [~~by which~~]used to collect representative samples of the hazardous secondary material [~~are collected such~~]so that a minimum loss of organics occurs throughout the sample collection and handling process and [~~by which~~]sample integrity is maintained. A copy of the written sampling plan shall be maintained at the facility. An example of acceptable sample collection and handling procedures may be found in Method 25D in 40 CFR part 60, appendix A.

(ii) Analysis. Any appropriate one of the [~~following~~]methods listed in Subsections R315-261-1083(b)(3)(ii)(A) through R315-261-1083(b0(3)(ii)(E) may be used to analyze the samples and compute the maximum organic vapor pressure of the hazardous secondary material:

(A) Method 25E in 40 CFR part 60 appendix A;

(B) Methods described in American Petroleum Institute Publication 2517, Third Edition, February 1989, "Evaporative Loss from External Floating-Roof Tanks," incorporated by reference - refer to Section R315-260-11;

(C) Methods [~~obtained~~]received from standard reference texts;

(D) ASTM Method 2879-92, incorporated by reference - refer to Section R315-260-11; and

(E) Any other method approved by the [~~Director~~]director.

(4) Use of knowledge to determine the maximum organic vapor pressure of the hazardous secondary material. Documentation shall be prepared and recorded that presents the information used as the basis for the knowledge by the remanufacturer or other person that stores or treats the hazardous secondary material that the maximum organic vapor pressure of the hazardous secondary material is less than the maximum vapor pressure limit listed in Subsection R315-261-1084[~~5~~](b)(1)(i) for the applicable tank design capacity category. An example of information that may be used is documentation that the hazardous secondary material is generated by a process [~~for which~~]that at other locations it previously has been determined by direct measurement that the hazardous secondary material's waste maximum organic vapor pressure is less than the maximum vapor pressure limit for the appropriate tank design capacity category.

(d) Procedure for determining no detectable organic emissions for [~~the purpose of~~]complying with Sections R315-261-1080 through R315-261-1089:

(1) The test shall be conducted in accordance with the procedures specified in Method 21 of 40 CFR part 60, appendix A. Each potential leak interface, [~~i.e.~~]that is, a location where organic vapor leakage could occur, on the cover and associated closure devices shall be checked. Potential leak interfaces that are associated with covers and closure devices include[~~, but are not limited to~~]: The interface of the cover and its foundation mounting; the periphery of any opening on the cover and its associated closure device; and the sealing seat interface on a spring-loaded pressure relief valve.

(2) The test shall be performed [~~when~~]if the unit contains a hazardous secondary material having an organic concentration representative of the range of concentrations for the hazardous secondary material expected to be managed in the unit. During the test, the cover and closure devices shall be secured in the closed position.

(3) The detection instrument shall meet the performance criteria of Method 21 of 40 CFR part 60, appendix A, except the instrument response factor criteria in section 3.1.2(a) of Method 21 shall be for the average composition of the organic constituents in the hazardous secondary material placed in the hazardous secondary management unit, not for each individual organic constituent.

(4) The detection instrument shall be calibrated before use on each day of its use by the procedures specified in Method 21 of 40 CFR part 60, appendix A.

(5) Calibration gases shall be as follows:

(i) Zero air, less than 10 ppmv hydrocarbon in air[~~,~~]; and

(ii) A mixture of methane or n-hexane and air at a concentration of [~~approximately~~]about, but less than, 10,000 ppmv methane or n-hexane.

(6) The background level shall be determined according to the procedures in Method 21 of 40 CFR part 60, appendix A.

(7) Each potential leak interface shall be checked by traversing the instrument probe around the potential leak interface as close to the interface as possible, as described in Method 21 of 40 CFR part 60, appendix A. [~~In the case when~~]If the configuration of the cover or closure device prevents a complete traverse of the interface, [~~all~~]each accessible portion[~~s~~] of the interface shall be sampled. [~~In the case when~~]If the configuration of the closure device prevents any sampling at the interface and the device is equipped with an enclosed extension or horn, [~~e.g.~~]for example, [~~some~~]pressure relief devices, the instrument probe inlet shall be placed at [~~approximately~~]about the center of the exhaust area to the atmosphere.

(8) The arithmetic difference between the maximum organic concentration [~~indicated~~]shown by the instrument and the background level shall be compared with the value of 500 ppmv except [~~when~~]if monitoring a seal around a rotating shaft that passes through a cover opening, in which case the comparison shall be as specified in Subsection R315-261-1083(d)(9). If the difference is less than 500 ppmv, then the potential leak interface is determined to operate with no detectable organic emissions.

(9) For the seals around a rotating shaft that passes through a cover opening, the arithmetic difference between the maximum organic concentration [~~indicated~~]shown by the instrument and the background level shall be compared with the value of 10,000 ppmw. If the difference is less than 10,000 ppmw, then the potential leak interface is determined to operate with no detectable organic emissions.

R315-261-1084. Air Emission Standards for Tanks and Containers - Standards: Tanks.

(a) [~~The provisions of~~]Section R315-261-1084 [~~apply~~]applies to the control of air pollutant emissions from tanks [~~for which~~]that Subsection R315-261-1082(b) references the use of Section R315-261-1084 for [~~such~~]the air emission control.

(b) The remanufacturer or other person that stores or treats the hazardous secondary material shall control air pollutant emissions from each tank subject to Section R315-261-1084 in accordance with the [~~following~~]requirements of Subsection R315-261-1084(b)(1) or R315-261-1084(b)(2) as applicable:

(1) For a tank that manages hazardous secondary material that meets [~~all~~]the of the conditions specified in Subsections R315-261-1084(b)(1)(i) through R315-261-1084(b)(1)(iii), the remanufacturer or other person that stores or treats the hazardous secondary material shall control air pollutant emissions from the tank in accordance with the Tank Level 1 controls specified in Subsection R315-261-1084(c) or the Tank Level 2 controls specified in Subsection R315-261-1084(d).

(i) The hazardous secondary material in the tank has a maximum organic vapor pressure [~~which~~]that is less than the maximum organic vapor pressure limit for the tank's design capacity category as follows:

(A) For a tank design capacity equal to or greater than 151 m^3, the maximum organic vapor pressure limit for the tank is 5.2 kPa.

(B) For a tank design capacity equal to or greater than 75 m^3 but less than 151 m^3, the maximum organic vapor pressure limit for the tank is 27.6 kPa.

(C) For a tank design capacity less than 75 m^3, the maximum organic vapor pressure limit for the tank is 76.6 kPa.

(ii) The hazardous secondary material in the tank is not heated by the remanufacturer or other person that stores or treats the hazardous secondary material to a temperature that is greater than the temperature [~~at which~~]that the maximum organic vapor pressure of the hazardous secondary material is determined for[~~ the purpose of~~] complying with Subsection R315-261-1084(b)(1)(i).

(2) For a tank that manages hazardous secondary material that does not meet [~~all~~]the of the conditions specified in Subsections R315-261-1084(b)(1)(i) through R315-261-1084(b)(1)(iii), the remanufacturer or other person that stores or treats the hazardous secondary material shall control air pollutant emissions from the tank by using Tank Level 2 controls in accordance with the requirements of Subsection R315-261-1084(d). An example of tanks required to use Tank Level 2 controls is a tank [~~for which~~]that the hazardous secondary material in the tank has a maximum organic vapor pressure that is equal to or greater than the maximum organic vapor pressure limit for the tank's design capacity category as specified in Subsection R315-261-1084(b)(1)(i).

(c) Remanufacturers or other persons that store or treats the hazardous secondary material controlling air pollutant emissions from a tank using Tank Level 1 controls shall meet the requirements specified in Subsections R315-261-1084(c)(1) through R315-261-1084(c)(4):

(1) The remanufacturer or other person that stores or treats that hazardous secondary material shall determine the maximum organic vapor pressure for a hazardous secondary material to be managed in the tank using Tank Level 1 controls before the first time the hazardous secondary material is placed in the tank. The maximum organic vapor pressure shall be determined using the procedures specified in Subsection R315-261-1083(c). Thereafter, the remanufacturer or other person that stores or treats the hazardous secondary material shall perform a new determination [~~whenever~~]if changes to the hazardous secondary material managed in the tank could potentially cause the maximum organic vapor pressure to increase to a level that is equal to or greater than the maximum organic vapor pressure limit for the tank design capacity category specified in Subsection R315-261-1084(b)(1)(i), as applicable to the tank.

(2) The tank shall be equipped with a fixed roof designed to meet the [~~following~~]specifications in Subsections R315-261-1084(c)(2)(i) through R315-261-1084(c)(2)(iii):

(i) The fixed roof and its closure devices shall be designed to form a continuous barrier over the entire surface area of the hazardous secondary material in the tank. The fixed roof may be a separate cover installed on the tank, [~~e.g.~~]for example, a removable cover mounted on an open-top tank, or may be an integral part of the tank structural design, [~~e.g.~~]for example, a horizontal cylindrical tank equipped with a hatch.

(ii) The fixed roof shall be installed in a manner [~~such~~]so that there are no visible cracks, holes, gaps, or other open spaces between roof section joints or between the interface of the roof edge and the tank wall.

(iii) Each opening in the fixed roof, and any manifold system associated with the fixed roof, shall be either:

(A) [~~E~~]equipped with a closure device designed to operate [~~such~~]so that [~~when~~]if the closure device is secured in the closed position there are no visible cracks, holes, gaps, or other open spaces in the closure device or between the perimeter of the opening and the closure device; or

(B) [~~C~~]connected by a closed-vent system that is vented to a control device. The control device shall remove or destroy organics in the vent stream, and shall be operating [~~whenever~~]if hazardous secondary material is managed in the tank, except as provided for in Subsections R315-261-1084(c)(2)(iii)(B)(I) and R315-261-1084(c)(2)(iii)(B)(II).

(I) During periods when it is necessary to provide access to the tank for performing the activities of Subsection R315-261-1084(c)(2)(iii)(B)(II), venting of the vapor headspace underneath the fixed roof to the control device is not required, opening of closure devices is allowed, and removal of the fixed roof is allowed. Following completion of the activity, the remanufacturer or other person that stores or treats the hazardous secondary material shall promptly secure the closure device in the closed position or reinstall the cover, as applicable, and resume operation of the control device.

(II) During periods of routine inspection, maintenance, or other activities needed for normal operations, and for removal of accumulated sludge or other residues from the bottom of the tank.

(iv) The fixed roof and its closure devices shall be made of suitable materials that will minimize exposure of the hazardous secondary material to the atmosphere, to the extent practical, and will maintain the integrity of the fixed roof and closure devices throughout their intended service life. Factors to be considered when selecting the materials for and designing the fixed roof and closure devices shall include: organic vapor permeability, the effects of any contact with the hazardous secondary material or its vapors managed in the tank; the effects of outdoor exposure to wind, moisture, and sunlight; and the operating practices used for the tank [~~on which the~~]that has a fixed roof [~~is~~]installed.

(3) [~~Whenever~~]If a hazardous secondary material is in the tank, the fixed roof shall be installed with each closure device secured in the closed position except as follows:

(i) Opening of closure devices or removal of the fixed roof is allowed [~~at the following times~~]in accordance with Subsections R315-261-1084(c)(3)(i)(A) and R315-261-1084(c)(3)(i)(B):

(A) To provide access to the tank for performing routine inspection, maintenance, or other activities needed for normal operations. Examples of [~~such~~]these activities include those times when a worker needs to open a port to sample the liquid in the tank, or when a worker needs to open a hatch to maintain or repair equipment. Following completion of the activity, the remanufacturer or other person that stores or treats the hazardous secondary material shall promptly secure the closure device in the closed position or reinstall the cover, as applicable, to the tank.

(B) To remove accumulated sludge or other residues from the bottom of tank.

(ii) Opening of a spring-loaded pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device [~~which~~]that vents to the atmosphere is allowed during normal operations for[~~the purpose of~~] maintaining the tank internal pressure in accordance with the tank design specifications. The device shall be designed to operate with no detectable organic emissions [~~when~~]if the device is secured in the closed position. The settings [~~at which~~]that cause the device to open[~~s~~] shall be established [~~such~~]so that the device remains in the closed position [~~whenever~~]if the tank internal pressure is within the internal pressure operating range determined by the remanufacturer or other person that stores or treats the hazardous secondary material based on the tank manufacturer recommendations, applicable [~~regulations~~]rules, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the tank internal pressure exceeds the internal pressure operating range for the tank as a result of loading operations or diurnal ambient temperature fluctuations.

(iii) Opening of a safety device, as defined in Section R315-261-1081, is allowed at any time conditions require doing so to avoid an unsafe condition.

(4) The remanufacturer or other person that stores or treats the hazardous secondary material shall inspect the air emission control equipment in accordance with the [~~following~~]requirements in Subsections R315-261-1084(c)(4)(i) through R315-261-1084 (c)(4)(iv).

(i) The fixed roof and its closure devices shall be visually inspected by the remanufacturer or other person that stores or treats the hazardous secondary material to check for defects that could result in air pollutant emissions. Defects include[~~, but are not limited to,~~] visible cracks, holes, or gaps in the roof sections or between the roof and the tank wall; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices.

(ii) The remanufacturer or other person that stores or treats the hazardous secondary material shall perform an initial inspection of the fixed roof and its closure devices on or before the date that the tank becomes subject to Section R315-261-1084. Thereafter, the remanufacturer or other person that stores or treats the hazardous secondary material shall perform the inspections at least once [~~every~~]each year except under the special conditions provided for in Subsection R315-261-1084(l).

(iii) In the event that a defect is detected, the remanufacturer or other person that stores or treats the hazardous secondary material shall repair the defect in accordance with the requirements of Subsection R315-261-1084(k).

(iv) The remanufacturer or other person that stores or treats the hazardous secondary material shall maintain a record of the inspection in accordance with the requirements specified in Subsection R315-261-1089(b).

(d) Remanufacturers or other persons that store or treat the hazardous secondary material controlling air pollutant emissions from a tank using Tank Level 2 controls shall use one of the [~~following~~]tanks specified in Subsections R315-261-1084(d)(1) through R315-261-1084(d)(5):

(1) A fixed[~~-~~] roof tank equipped with an internal floating roof in accordance with the requirements specified in Subsection R315-261-1084(e);

(2) A tank equipped with an external floating roof in accordance with the requirements specified in Subsection R315-261-1084(f);

(3) A tank vented through a closed-vent system to a control device in accordance with the requirements specified in Subsection R315-261-1084(g);

(4) A pressure tank designed and operated in accordance with the requirements specified in Subsection R315-261-1084(h); or

(5) A tank located inside an enclosure that is vented through a closed-vent system to an enclosed combustion control device in accordance with the requirements specified in Subsection R315-261-1084(i).

(e) The remanufacturer or other person that stores or treats the hazardous secondary material who controls air pollutant emissions from a tank using a fixed roof with an internal floating roof shall meet the requirements specified in Subsections R315-261-1084(e)(1) through R315-261-1084(e)(3).

(1) The tank shall be equipped with a fixed roof and an internal floating roof in accordance with the [~~following~~]requirements in Subsections R315-261-1084(e)(1)(i) through R315-261-1084(e)(1)(iii):

(i) The internal floating roof shall be designed to float on the liquid surface except when the floating roof shall be supported by the leg supports.

(ii) The internal floating roof shall be equipped with a continuous seal between the wall of the tank and the floating roof edge that meets either of the [~~following~~]requirements in Subsection R315-261-1084(e)(1)(ii)(A) or R315-261-1084(e)(1)(ii)(B):

(A) A single continuous seal that is either a liquid-mounted seal or a metallic shoe seal, as defined in Section R315-261-1081; or

(B) Two continuous seals mounted one above the other. The lower seal may be a vapor-mounted seal.

(iii) The internal floating roof shall meet the [~~following~~]specifications of Subsections R315-261-1084(e)(1)(iii)(A) through R315-261-1084(e)(1)(iii)(F):

(A) Each opening in a noncontact internal floating roof except for automatic bleeder vents, vacuum breaker vents, and the rim space vents is to provide a projection below the liquid surface.

(B) Each opening in the internal floating roof shall be equipped with a gasketed cover or a gasketed lid except for leg sleeves, automatic bleeder vents, rim space vents, column wells, ladder wells, sample wells, and stub drains.

(C) Each penetration of the internal floating roof for[~~ the purpose of~~] sampling shall have a slit fabric cover that covers at least 90% [~~percent~~]of the opening.

(D) Each automatic bleeder vent and rim space vent shall be gasketed.

(E) Each penetration of the internal floating roof that allows for passage of a ladder shall have a gasketed sliding cover.

(F) Each penetration of the internal floating roof that allows for passage of a column supporting the fixed roof shall have a flexible fabric sleeve seal or a gasketed sliding cover.

(2) The remanufacturer or other person that stores or treats the hazardous secondary material shall operate the tank in accordance with the [~~following~~]requirements of Subsections R315-261-1084(e)(2)(i) through R315-261-1084(e)(2)(iii):

(i) [~~When~~]If the floating roof is resting on the leg supports, the process of filling, emptying, or refilling shall be continuous and shall be [~~completed~~]finished as soon as practical.

(ii) Automatic bleeder vents are to be always set closed [~~at all times when~~]if the roof is floating, except when the roof is being floated off or is being landed on the leg supports.

(iii) [~~Prior to~~]Before filling the tank, each cover, access hatch, gauge float well or lid on any opening in the internal floating roof shall be bolted or fastened closed, [~~i.e.~~]that is, no visible gaps. Rim space vents are to be set to open only [~~when~~]if the internal floating roof is not floating or [~~when~~]if the pressure beneath the rim exceeds the manufacturer's recommended setting.

(3) The remanufacturer or other person that stores or treats the hazardous secondary material shall inspect the internal floating roof in accordance with the procedures specified as follows:

(i) The floating roof and its closure devices shall be visually inspected by the remanufacture or other person that stores or treats the hazardous secondary material to check for defects that could result in air pollutant emissions. Defects include[~~, but are not limited to~~]: The internal floating roof is not floating on the surface of the liquid inside the tank; liquid has accumulated on top of the internal floating roof; any portion of the roof seals have detached from the roof rim; holes, tears, or other openings are visible in the seal fabric; the gaskets no longer close off the hazardous secondary material surface from the atmosphere; or the slotted membrane has more than 10% [~~percent~~]open area.

(ii) The remanufacturer or other person that stores or treats the hazardous secondary material shall inspect the internal floating roof components as follows except as provided in Subsection R315-261-1084(e)(3)(iii):

(A) Visually inspect the internal floating roof components through openings on the fixed[~~-~~] roof, [~~e.g.~~]for example, manholes and roof hatches, at least once [~~every~~]each 12 month[~~s~~] period after initial fill[~~,~~]; and

(B) Visually inspect the internal floating roof, primary seal, secondary seal, if one is in service, gaskets, slotted membranes, and sleeve seals, if any, each time the tank is emptied and degassed and at least [~~every~~]each 10 year[~~s~~] period.

(iii) As an alternative to performing the inspections specified in Subsection R315-261-1084(e)(3)(ii) for an internal floating roof equipped with two continuous seals mounted one above the other, the remanufacturer or other person that stores or treats the hazardous secondary material may visually inspect the internal floating roof, primary and secondary seals, gaskets, slotted membranes, and sleeve seals, if any, each time the tank is emptied and degassed and at least [~~every~~]each five year[~~s~~] period.

(iv) [~~Prior to~~]Before each inspection required by Subsection R315-261-1084(e)(3)(ii)[~~—~~] or R315-261-1084(e)(3)(iii), the remanufacturer or other person that stores or treats the hazardous secondary material shall notify the [~~Director~~]director in advance of each inspection to provide the [~~Director~~]director with the opportunity to have an observer present during the inspection. The remanufacturer or other person that stores or treats the hazardous secondary material shall notify the [~~Director~~]director of the date and location of the inspection as follows:

(A) [~~Prior to~~]Before each visual inspection of an internal floating roof in a tank that has been emptied and degassed, written notification shall be prepared and sent by the remanufacturer or other person that stores or treats the hazardous secondary material so that it is received by the [~~Director~~]director at least 30 calendar days before refilling the tank except when an inspection is not planned as provided for in Subsection R315-261-1084(e)(3)(iv)(B).

(B) [~~When~~]If a visual inspection is not planned and the remanufacturer or other person that stores or treats the hazardous secondary material could not have known about the inspection 30 calendar days before refilling the tank, the remanufacturer or other person that stores or treats the hazardous secondary material shall notify the [~~Director~~]director as soon as possible, but no later than seven calendar days before refilling of the tank. This notification may be made by telephone and immediately followed by a written explanation for why the inspection is unplanned. Alternatively, written notification, including the explanation for the unplanned inspection, may be sent so that it is received by the [~~Director~~]director at least seven calendar days before refilling the tank.

(v) In the event that a defect is detected, the remanufacturer or other person that stores or treats the hazardous secondary material shall repair the defect in accordance with the requirements of Subsection R315-261-1084(k).

(vi) The remanufacturer or other person that stores or treats the hazardous secondary material shall maintain a record of the inspection in accordance with the requirements specified in Subsection R315-261-1089(b).

(4) Safety devices, as defined in Section R315-261-1081, may be installed and operated as necessary on any tank complying with the requirements of Subsection R315-261-1084(e).

(f) The remanufacturer or other person that stores or treats the hazardous secondary material who controls air pollutant emissions from a tank using an external floating roof shall meet the requirements specified in Subsections R315-261-1084(f)(1) through R315-261-1084(f)(3).

(1) The remanufacturer or other person that stores or treats the hazardous secondary material shall design the external floating roof in accordance with the [~~following~~]requirements of Subsections R315-261-1084(f)(1)(i) and R315-261-1084(f)(1)(ii):

(i) The external floating roof shall be designed to float on the liquid surface except when the floating roof shall be supported by the leg supports.

(ii) The floating roof shall be equipped with two continuous seals, one above the other, between the wall of the tank and the roof edge. The lower seal is referred to as the primary seal, and the upper seal is referred to as the secondary seal.

(A) The primary seal shall be a liquid-mounted seal or a metallic shoe seal, as defined in Section R315-261-1081. The total area of the gaps between the tank wall and the primary seal [~~shall~~]may not exceed 212 square centimeters per meter of tank diameter, and the width of any portion of these gaps [~~shall~~]may not exceed 3.8 centimeters. If a metallic shoe seal is used for the primary seal, the metallic shoe seal shall be designed so that one end extends into the liquid in the tank and the other end extends a vertical distance of at least 61 centimeters above the liquid surface.

(B) The secondary seal shall be mounted above the primary seal and cover the annular space between the floating roof and the wall of the tank. The total area of the gaps between the tank wall and the secondary seal [~~shall~~]may not exceed 21.2 square centimeters per meter of tank diameter, and the width of any portion of these gaps [~~shall~~]may not exceed 1.3 centimeters.

(iii) The external floating roof shall meet the [~~following~~]specifications in Subsections R315-261-1084(f)(1)(iii)(A) through R315-261-1084(f)(1)(iii)(I):

(A) Except for automatic bleeder vents, vacuum breaker vents, and rim space vents, each opening in a noncontact external floating roof shall provide a projection below the liquid surface.

(B) Except for automatic bleeder vents, rim space vents, roof drains, and leg sleeves, each opening in the roof shall be equipped with a gasketed cover, seal, or lid.

(C) Each access hatch and each gauge float well shall be equipped with a cover designed to be bolted or fastened [~~when~~]if the cover is secured in the closed position.

(D) Each automatic bleeder vent and each rim space vent shall be equipped with a gasket.

(E) Each roof drain that empties into the liquid managed in the tank shall be equipped with a slotted membrane fabric cover that covers at least 90% [~~percent~~]of the area of the opening.

(F) Each unslotted and slotted guide pole well shall be equipped with a gasketed sliding cover or a flexible fabric sleeve seal.

(G) Each unslotted guide pole shall be equipped with a gasketed cap on the end of the pole.

(H) Each slotted guide pole shall be equipped with a gasketed float or other device [~~which~~]that closes off the liquid surface from the atmosphere.

(I) Each gauge hatch and each sample well shall be equipped with a gasketed cover.

(2) The remanufacturer or other person that stores or treats the hazardous secondary material shall operate the tank in accordance with the [~~following~~]requirements of Subsections R315-261-1084(f)(2)(i) through R315-261-1084(f)(2)(viii):

(i) [~~When~~]If the floating roof is resting on the leg supports, the process of filling, emptying, or refilling shall be continuous and shall be [~~completed~~]finished as soon as practical.

(ii) Except for automatic bleeder vents, rim space vents, roof drains, and leg sleeves, each opening in the roof shall always be secured and maintained in a closed position [~~at all times~~]except when the closure device shall be open for access.

(iii) Covers on each access hatch and each gauge float well shall be bolted or fastened [~~when~~]if secured in the closed position.

(iv) Automatic bleeder vents shall always be set closed [~~at all times when~~]if the roof is floating, except when the roof is being floated off or is being landed on the leg supports.

(v) Rim space vents shall be set to open only at those times that the roof is being floated off the roof leg supports or [~~when~~]if the pressure beneath the rim seal exceeds the manufacturer's recommended setting.

(vi) The cap on the end of each unslotted guide pole shall always be secured in the closed position [~~at all times~~]except when measuring the level or collecting samples of the liquid in the tank.

(vii) The cover on each gauge hatch or sample well shall always be secured in the closed position [~~at all times~~]except when the hatch or well shall be opened for access.

(viii) Both the primary seal and the secondary seal shall completely cover the annular space between the external floating roof and the wall of the tank in a continuous fashion except during inspections.

(3) The remanufacturer or other person that stores or treats the hazardous secondary material shall inspect the external floating roof in accordance with the procedures specified as follows:

(i) The remanufacturer or other person that stores or treats the hazardous secondary material shall measure the external floating roof seal gaps in accordance with the [~~following~~]requirements in Subsections R315-261-1084(f)(3)(i)(A) through R315-261-1084(f)(3)(i)(F):

(A) The remanufacturer or other person that stores or treats the hazardous secondary material shall perform measurements of gaps between the tank wall and the primary seal within 60 calendar days after initial operation of the tank following installation of the floating roof and, thereafter, at least once [~~every~~]each 5 year[~~s~~] period.

(B) The remanufacturer or other person that stores or treats the hazardous secondary material shall perform measurements of gaps between the tank wall and the secondary seal within 60 calendar days after initial operation of the tank following installation of the floating roof and, thereafter, at least once [~~every~~]each year.

(C) If a tank [~~ceases to~~]stops holding hazardous secondary material for a period of 1 year or more, subsequent introduction of hazardous secondary material into the tank shall be considered an initial operation for the purposes of Subsections R315-261-1084(f)(3)(i)(A) and R315-261-1084(f)(3)(i)(B).

(D) The remanufacturer or other person that stores or treats the hazardous secondary material shall determine the total surface area of gaps in the primary seal and in the secondary seal individually using the [~~following~~]procedure contained in Subsections R315-261-1084(f)(3)(i)(D)(I) through R315-261-1084(f)(3)(i)(D)(IV):

(I) The seal gap measurements shall be performed at one or more floating roof levels [~~when~~]if the roof is floating off the roof supports.

(II) Seal gaps, if any, shall be measured around the entire perimeter of the floating roof in each place where a 0.32-centimeter diameter uniform probe passes freely, without forcing or binding against the seal, between the seal and the wall of the tank and measure the circumferential distance of each [~~such~~]location.

(III) For a seal gap measured under Subsection R315-261-1084(f)(3), the gap surface area shall be determined by using probes of various widths to measure accurately the actual distance from the tank wall to the seal and multiplying each [~~such~~]width by its respective circumferential distance.

(IV) The total gap area shall be calculated by adding the gap surface areas determined for each identified gap location for the primary seal and the secondary seal individually, and then dividing the sum for each seal type by the nominal diameter of the tank. These total gap areas for the primary seal and secondary seal are then compared to the respective standards for the seal type as specified in Subsection R315-261-1084(f)(1)(ii).

(E) In the event that the seal gap measurements do not conform to the specifications in Subsection R315-261-1084(f)(1)(ii), the remanufacturer or other person that stores or treats the hazardous secondary material shall repair the defect in accordance with the requirements of Subsection R315-261-1084(k).

(F) The remanufacturer or other person that stores or treats the hazardous secondary material shall maintain a record of the inspection in accordance with the requirements specified in Subsection R315-261-1089(b).

(ii) The remanufacturer or other person that stores or treats the hazardous secondary material shall visually inspect the external floating roof in accordance with the [~~following~~]requirements in Subsections R315-261-1084(f)(3)(ii)(A) through R315-261-1084(f)(3)(ii)(D):

(A) The floating roof and its closure devices shall be visually inspected by the remanufacturer or other person that stores or treats the hazardous secondary material to check for defects that could result in air pollutant emissions. Defects include[~~, but are not limited to~~]: Holes, tears, or other openings in the rim seal or seal fabric of the floating roof; a rim seal detached from the floating roof; [~~all~~]the floating roof deck or a portion of the floating roof deck being submerged below the surface of the liquid in the tank; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices.

(B) The remanufacturer or other person that stores or treats the hazardous secondary material shall perform an initial inspection of the external floating roof and its closure devices on or before the date that the tank becomes subject to Section R315-261-1084. Thereafter, the remanufacturer or other person that stores or treats the hazardous secondary material shall perform the inspections at least once [~~every~~]each year except for the special conditions provided for in Subsection R315-261-1084(l).

(C) In the event that a defect is detected, the remanufacturer or other person that stores or treats the hazardous secondary material shall repair the defect in accordance with the requirements of Subsection R315-261-1084(k).

(D) The remanufacturer or other person that stores or treats the hazardous secondary material shall maintain a record of the inspection in accordance with the requirements specified in Subsection R315-261-1089(b).

(iii) [~~Prior to~~]Before each inspection required by Subsection R315-261-1084(f)(3)(i) or R315-261-1084(f)(3)(ii), the remanufacturer or other person that stores or treats the hazardous secondary material shall notify the [~~Director~~]director in advance of each inspection to provide the [~~Director~~]director with the opportunity to have an observer present during the inspection. The remanufacturer or other person that stores or treats the hazardous secondary material shall notify the [~~Director~~]director of the date and location of the inspection as follows:

(A) [~~Prior to~~]Before each inspection to measure external floating roof seal gaps as required under Subsection R315-261-1084(f)(3)(i), written notification shall be prepared and sent by the remanufacturer or other person that stores or treats the hazardous secondary material so that it is received by the [~~Director~~]director at least 30 calendar days before the date the measurements are scheduled to be performed.

(B) [~~Prior to~~]Before each visual inspection of an external floating roof in a tank that has been emptied and degassed, written notification shall be prepared and sent by the remanufacturer or other person that stores or treats the hazardous secondary material so that it is received by the [~~Director~~]director at least 30 calendar days before refilling the tank except when an inspection is not planned as provided for in Subsection R315-261-1084(f)(3)(iii)(C).

(C) [~~When~~]If a visual inspection is not planned and the remanufacturer or other person that stores or treats the hazardous secondary material could not have known about the inspection 30 calendar days before refilling the tank, the owner or operator shall notify the [~~Director~~]director as soon as possible, but no later than seven calendar days before refilling of the tank. This notification may be made by telephone and immediately followed by a written explanation for why the inspection is unplanned. Alternatively, written notification, including the explanation for the unplanned inspection, may be sent so that it is received by the [~~Director~~]director at least seven calendar days before refilling the tank.

(4) Safety devices, as defined in Section R315-261-1081, may be installed and operated as necessary on any tank complying with the requirements of Subsection R315-261-1084(f).

(g) The remanufacturer or other person that stores or treats the hazardous secondary material who controls air pollutant emissions from a tank by venting the tank to a control device shall meet the requirements specified in Subsections R315-261-1084(g)(1) through R315-261-1084(g)(3).

(1) The tank shall be covered by a fixed roof and vented directly through a closed-vent system to a control device in accordance with the [~~following~~]requirements specified in Subsections R315-261-1084(g)(1)(i) through R315-261-1084(g)(1)(iv):

(i) The fixed roof and its closure devices shall be designed to form a continuous barrier over the entire surface area of the liquid in the tank.

(ii) Each opening in the fixed roof not vented to the control device shall be equipped with a closure device. If the pressure in the vapor headspace underneath the fixed roof is less than atmospheric pressure when the control device is operating, the closure devices shall be designed to operate [~~such~~]so that [~~when~~]if the closure device is secured in the closed position there are no visible cracks, holes, gaps, or other open spaces in the closure device or between the perimeter of the cover opening and the closure device. If the pressure in the vapor headspace underneath the fixed roof is equal to or greater than atmospheric pressure when the control device is operating, the closure device shall be designed to operate with no detectable organic emissions.

(iii) The fixed roof and its closure devices shall be made of suitable materials that will minimize exposure of the hazardous secondary material to the atmosphere, to the extent practical, and will maintain the integrity of the fixed roof and closure devices throughout their intended service life. Factors to be considered when selecting the materials for and designing the fixed roof and closure devices shall include: Organic

vapor permeability, the effects of any contact with the liquid and its vapor managed in the tank; the effects of outdoor exposure to wind, moisture, and sunlight; and the operating practices used for the tank [~~on which the~~]that has a fixed roof[~~ is~~] installed.

(iv) The closed-vent system and control device shall be designed and operated in accordance with the requirements of Section R315-261-1087.

(2) [~~Whenever~~]If a hazardous secondary material is in the tank, the fixed roof shall be installed with each closure device secured in the closed position and the vapor headspace underneath the fixed roof vented to the control device except as follows:

(i) Venting to the control device is not required, and opening of closure devices or removal of the fixed roof is allowed [~~at the following times~~]in accordance with Subsections R315-261-1084(g)(2)(i)(A) and R315-261-1084(g)(2)(i)(B):

(A) To provide access to the tank for performing routine inspection, maintenance, or other activities needed for normal operations. Examples of [~~such~~]these activities include those times when a worker needs to open a port to sample liquid in the tank, or when a worker needs to open a hatch to maintain or repair equipment. Following completion of the activity, the remanufacturer or other person that stores or treats the hazardous secondary material shall promptly secure the closure device in the closed position or reinstall the cover, as applicable, to the tank.

(B) To remove accumulated sludge or other residues from the bottom of a tank.

(ii) Opening of a safety device, as defined in Section R315-261-1081, is allowed at any time conditions require doing so to avoid an unsafe condition.

(3) The remanufacturer or other person that stores or treats the hazardous secondary material shall inspect and monitor the air emission control equipment in accordance with the [~~following~~]procedures specified in Subsections R315-261-1084(g)(3)(i) through R315-261-1084(g)(3)(v):

(i) The fixed roof and its closure devices shall be visually inspected by the remanufacturer or other person that stores or treats the hazardous secondary material to check for defects that could result in air pollutant emissions. Defects include[~~, but are not limited to,~~] visible cracks, holes, or gaps in the roof sections or between the roof and the tank wall; broken, cracked, or otherwise damaged seals or gaskets on closure devices; and broken or missing hatches, access covers, caps, or other closure devices.

(ii) The closed-vent system and control device shall be inspected and monitored by the remanufacturer or other person that stores or treats the hazardous secondary material in accordance with the procedures specified in Section R315-261-1087.

(iii) The remanufacturer or other person that stores or treats the hazardous secondary material shall perform an initial inspection of the air emission control equipment on or before the date that the tank becomes subject to Section R315-261-1084. Thereafter, the remanufacturer or other person that stores or treats the hazardous secondary material shall perform the inspections at least once [~~every~~]each year except for the special conditions provided for in Subsection R315-261-1084(l).

(iv) In the event that a defect is detected, the remanufacture or other person that stores or treats the hazardous secondary material shall repair the defect in accordance with the requirements of Subsection R315-261-1084(k).

(v) The remanufacturer or other person that stores or treats the hazardous secondary material shall maintain a record of the inspection in accordance with the requirements specified in Subsection R315-261-1089(b).

(h) The remanufacturer or other person that stores or treats the hazardous secondary material who controls air pollutant emissions by using a pressure tank shall meet the [~~following~~]requirements of Subsections R315-261-1084(h)(1) through R315-261-1084(h)(3).

(1) The tank shall be designed not to vent to the atmosphere as a result of compression of the vapor headspace in the tank during filling of the tank to its design capacity.

(2) [~~All~~]Each tank opening[~~s~~] shall be equipped with closure devices designed to operate with no detectable organic emissions as determined using the procedure specified in Subsection R315-261-1083(d).

(3) [~~Whenever~~]If a hazardous secondary material is in the tank, the tank shall be operated as a closed system that does not vent to the atmosphere except under either [~~or the following~~]of the conditions [~~as~~]specified in Subsection R315-261-1084(h)(3)(i) or R315-261-1084(h)(3)(ii).

(i) At those times when opening of a safety device, as defined in Section R315-261-1081, is required to avoid an unsafe condition.

(ii) At those times when purging of inerts from the tank is required and the purge stream is routed to a closed-vent system and control device designed and operated in accordance with the requirements of Section R315-261-1087.

(i) The remanufacturer or other person that stores or treats the hazardous secondary material who controls air pollutant emissions by using an enclosure vented through a closed-vent system to an enclosed combustion control device shall meet the requirements specified in Subsections R315-261-1084(i)(1) through R315-261-1084(i)(4).

(1) The tank shall be located inside an enclosure. The enclosure shall be designed and operated in accordance with the criteria for a permanent total enclosure as specified in "Procedure T - Criteria for and Verification of a Permanent or Temporary Total Enclosure" under 40 CFR 52.741, appendix B. The enclosure may have permanent or temporary openings to allow worker access; passage of material into or out of the enclosure by conveyor, vehicles, or other mechanical means; entry of permanent mechanical or electrical equipment; or direct airflow into the enclosure. The remanufacturer or other person that stores or treats the hazardous secondary material shall perform the verification procedure for the enclosure as specified in Section 5.0 to "Procedure T - Criteria for and Verification of a Permanent or Temporary Total Enclosure" initially when the enclosure is first installed and, thereafter, annually.

(2) The enclosure shall be vented through a closed-vent system to an enclosed combustion control device that is designed and operated in accordance with the standards for either a vapor incinerator, boiler, or process heater specified in Section R315-261-1087.

(3) Safety devices, as defined in Section R315-261-1081, may be installed and operated as necessary on any enclosure, closed-vent system, or control device used to comply with the requirements of Subsections R315-261-1084(i)(1) and R315-261-1084(i)(2).

(4) The remanufacturer or other person that stores or treats the hazardous secondary material shall inspect and monitor the closed-vent system and control device as specified in Section R315-261-1087.

(j) The remanufacturer or other person that stores or treats the hazardous secondary material shall transfer hazardous secondary material to a tank subject to Section R315-261-1084 in accordance with the [~~following~~]requirements of Subsection R315-261-1084(j)(1) or R315-261-1084(j)(2):

(1) Transfer of hazardous secondary material, except as provided in Subsection R315-261-1084(j)(2), to the tank from another tank subject to Section R315-261-1084 shall be conducted using continuous hard[~~-~~] piping or another closed system that does not allow exposure of the hazardous secondary material to the atmosphere. For[~~- the purpose of~~] complying with this provision, an individual drain system is considered to be a closed system [~~when~~]if it meets the requirements of 40 CFR part 63, subpart RR - National Emission Standards for Individual Drain Systems.

(2) The requirements of Subsection R315-261-1084(j)(1) do not apply when transferring a hazardous secondary material to the tank under any of the [~~following~~]conditions specified in Subsections R315-261-1084(j)(2)(i) through R315-261-1084(j)(2)(iii):

(i) The hazardous secondary material meets the average VO concentration conditions specified in Subsection R315-261-1082(c)[~~(1)~~] at the point of material origination.

(ii) The hazardous secondary material has been treated by an organic destruction or removal process to meet the requirements in Subsection R315-261-1082(c)(2).

(iii) The hazardous secondary material meets the requirements of Subsection R315-261-1082(c)(4).

(k) The remanufacturer or other person that stores or treats the hazardous secondary material shall repair each defect detected during an inspection performed in accordance with the requirements of Subsection R315-261-1084(c)(4), R315-261-1084(e)(3), R315-261-1084(f)(3), or R315-261-1084(g)(3) as follows:

(1) The remanufacturer or other person that stores or treats the hazardous secondary material shall make first efforts at repair of the defect no later than [~~5~~]five calendar days after detection, and repair shall be [~~completed~~]finished as soon as possible but no later than 45 calendar days after detection except as provided in Subsection R315-261-1084(k)(2).

(2) Repair of a defect may be delayed beyond 45 calendar days if the remanufacturer or other person that stores or treats the hazardous secondary material determines that repair of the defect requires emptying or temporary removal from service of the tank and no alternative tank capacity is available at the site to accept the hazardous secondary material normally managed in the tank. In this case, the remanufacturer or other person that stores or treats the hazardous secondary material shall repair the defect the next time the process or unit that is generating the hazardous secondary material managed in the tank stops operation. Repair of the defect shall be [~~completed~~]finished before the process or unit resumes operation.

(l) Following the initial inspection and monitoring of the cover as required by [~~the applicable provisions of~~]Sections R315-261-1080 through R315-261-1089, subsequent inspection and monitoring may be performed at intervals longer than 1 year under the [~~following~~]special conditions specified in Subsections R315-261-1084(l)(1) and R315-261-1084(l)(2):

(1) [~~In the case when~~]If inspecting or monitoring the cover would expose a worker to dangerous, hazardous, or other unsafe conditions, then the remanufacturer or other person that stores or treats the hazardous secondary material may designate a cover as an [~~"~~]unsafe to inspect and monitor cover[~~"~~] and comply with [~~all of~~]the [~~following~~]requirements in Subsections R315-261-1084(l)(1)(i) and R315-261-1084(l)(1)(ii):

(i) Prepare a written explanation for the cover stating the reasons why the cover is unsafe to visually inspect or to monitor, if required.

(ii) Develop and implement a written plan and schedule to inspect and monitor the cover, using the procedures specified in the applicable section of Sections R315-261-1080 through R315-261-1089, as [~~frequently~~]often as practicable during those times when a worker can safely access the cover.

(2) [~~In the case when~~]If a tank is buried partially or entirely underground, a remanufacturer or other person that stores or treats the hazardous secondary material [~~is required to~~]shall inspect and monitor, as required by [~~the applicable provisions of~~]Section R315-261-1084, only those portions of the tank cover and those connections to the tank, [~~e.g.~~]for example, fill ports, access hatches, and gauge wells, [~~etc.,~~]that are located on or above the ground surface.

R315-261-1089. Air Emission Standards for Tanks and Containers - Recordkeeping Requirements.

(a) Each remanufacturer or other person that stores or treats the hazardous secondary material subject to requirements of Sections R315-261-1080 through R315-261-1089 shall record and maintain the information specified in Subsections R315-261-1089(b) through R315-261-1089(j), as applicable to the facility. Except for air emission control equipment design documentation and information required by Subsections R315-261-1089(i) and R315-261-1089(j), records required by Section R315-261-1089 shall be maintained at the facility for a minimum of [~~3~~]three years. Air emission control equipment design documentation shall be maintained at the facility until the air emission control equipment is replaced or otherwise no longer in service. Information required by Subsections R315-261-1089(i) and R315-261-1089(j) shall be maintained at the facility for as long as the hazardous secondary material management unit is not using air emission controls specified in Sections R315-261-1084 through R315-261-1087 in accordance with the conditions specified in Subsection R315-261-1080(a)[~~(b)(7) or (d), respectively~~].

(b) The remanufacturer or other person that stores or treats the hazardous secondary material using a tank with air emission controls in accordance with the requirements of Section R315-261-1084 shall prepare and maintain records for the tank that include the [~~following~~]information required by Subsections R315-261-1089(b)(1) and R315-261-1089(b)(2):

(1) For each tank using air emission controls in accordance with the requirements of Section R315-261-1084, the remanufacturer or other person that stores or treats the hazardous secondary material shall record:

(i) A tank identification number, [~~(~~]or other unique identification description as selected by the remanufacturer or other person that stores or treats the hazardous secondary material[~~)~~].

(ii) A record for each inspection required by Section R315-261-1084 that includes the [~~following~~]information required by Subsections R315-261-1089(b)(1)(ii)(A) and R316-261-1089(b)(1)(ii)(B):

(A) Date inspection was conducted.

(B) For each defect detected during the inspection: The location of the defect, a description of the defect, the date of detection, and corrective action taken to repair the defect. In the event that repair of the defect is delayed in accordance with the requirements of Section R315-261-1084, the remanufacturer or other person that stores or treats the hazardous secondary material shall also record the reason for the delay and the date that completion of repair of the defect is expected.

(2) In addition to the information required by Subsection R315-261-1089(b)(1), the remanufacturer or other person that stores or treats the hazardous secondary material shall record the [~~following~~]information required by Subsection R315-261-1089(b)(2)(i), R315-261-1089(b)(2)(ii) or R315-261-1089(b)(2)(iii), as applicable to the tank:

(i) The remanufacturer or other person that stores or treats the hazardous secondary material using a fixed roof to comply with the Tank Level 1 control requirements specified in Subsection R315-261-1084(c) shall prepare and maintain records for each determination for the maximum organic vapor pressure of the hazardous secondary material in the tank performed in accordance with the requirements of Subsection R315-261-1084(c). The records shall include the date and time the samples were collected, the analysis method used, and the analysis results.

(ii) The remanufacturer or other person that stores or treats the hazardous secondary material using an internal floating roof to comply with the Tank Level 2 control requirements specified in Subsection R315-261-1084(e) shall prepare and maintain documentation describing the floating roof design.

(iii) Remanufacturer or other persons that store or treat the hazardous secondary material using an external floating roof to comply with the Tank Level 2 control requirements specified in Subsection R315-261-1084(f) shall prepare and maintain the[~~following~~] records required by Subsections R315-261-1089(b)(2)(iii)(A) and R315-261-1089(b)(2)(iii)(B):

(A) Documentation describing the floating roof design and the dimensions of the tank.

(B) Records for each seal gap inspection required by Subsection R315-261-1084(f)(3) describing the results of the seal gap measurements. The records shall include the date that the measurements were performed, the raw data [~~obtained~~]received for the measurements, and the calculations of the total gap surface area. In the event that the seal gap measurements do not conform to the specifications in Subsection R315-261-1084(f)(1), the records shall include a description of the repairs that were made, the date the repairs were made, and the date the tank was emptied, if necessary.

(iv) Each remanufacturer or other person that stores or treats the hazardous secondary material using an enclosure to comply with the Tank Level 2 control requirements specified in Subsection R315-261-1084(i) shall prepare and maintain the [~~following~~]records required by Subsections R315-261-1089(b)(2)(iv)(A) and R315-261-1089(b)(2)(iv)(B):

(A) Records for the most recent set of calculations and measurements performed by the remanufacturer or other person that stores or treats the hazardous secondary material to verify that the enclosure meets the criteria of a permanent total enclosure as specified in "Procedure T - Criteria for and Verification of a Permanent or Temporary Total Enclosure" under 40 CFR 52.741, appendix B.

(B) Records required for the closed-vent system and control device in accordance with the requirements of Subsection R315-261-1089(e).

(c) Reserved

(d) The remanufacturer or other person that stores or treats the hazardous secondary material using containers with Container Level 3 air emission controls in accordance with the requirements of S[~~ubs~~]ection R315-261-1086 shall prepare and maintain records that include the [~~following~~]information required by Subsections R315-261-1089(d)(1) and R315-261-1089(d)(2):

(1) Records for the most recent set of calculations and measurements performed by the remanufacturer or other person that stores or treats the hazardous secondary material to verify that the enclosure meets the criteria of a permanent total enclosure as specified in "Procedure T - Criteria for and Verification of a Permanent or Temporary Total Enclosure" under 40 CFR 52.741, appendix B.

(2) Records required for the closed-vent system and control device in accordance with the requirements of Subsection R315-261-1089(e).

(e) The remanufacturer or other person that stores or treats the hazardous secondary material using a closed-vent system and control device in accordance with the requirements of S[~~ubs~~]ection R315-261-1087 shall prepare and maintain records that include the [~~following~~]information required by Subsection R315-261-1089(e)(1):

(1) Documentation for the closed-vent system and control device that includes:

(i) Certification that is signed and dated by the remanufacturer or other person that stores or treats the hazardous secondary material stating that the control device is designed to operate at the performance level documented by a design analysis as specified in Subsection R315-261-1089(e)(1)(ii) or by performance tests as specified in Subsection R315-261-1089(e)(1)(iii) when the tank or container is or would be operating at capacity or the highest level reasonably expected to occur.

(ii) If a design analysis is used, then design documentation as specified in Subsection R315-261-1035(b)(4). The documentation shall include information prepared by the remanufacturer or other person that stores or treats the hazardous secondary material or provided by the control device manufacturer or vendor that describes the control device design in accordance with Subsection R315-261-1035(b)(4)(iii) and certification by the remanufacturer or other person that stores or treats the hazardous secondary material that the control equipment meets the applicable specifications.

(iii) If performance tests are used, then a performance test plan as specified in Subsection R315-261-1035(b)(3) and [~~all~~]the test results.

(iv) Information as required by Subsections R315-261-1035(c)(1) and R315-261[~~-~~]-1035(c)(2), as applicable.

(v) A remanufacturer or other person that stores or treats the hazardous secondary material shall record, on a semiannual basis, the information specified in Subsections R315-261-1089(e)(1)(v)(A) and R315-261-1089(e)(1)(v)(B) for those planned routine maintenance operations that would require the control device not to meet the requirements of Subsection R315-261-1087(c)(1)(i), R315-261-1087(c)(1)(ii), or R315-261-1087(c)(1)(iii), as applicable.

(A) A description of the planned routine maintenance that is anticipated to be performed for the control device during the next 6-month period. This description shall include the type of maintenance necessary, planned frequency of maintenance, and lengths of maintenance periods.

(B) A description of the planned routine maintenance that was performed for the control device during the previous 6-month period. This description shall include the type of maintenance performed and the total number of hours during those 6 months that the control device did not meet the requirements of Subsection R315-261-1087(c)(1)(i), R315-261-1087(c)(1)(ii), or R315-261-1087(c)(1)(iii), as applicable, due to planned routine maintenance.

(vi) A remanufacturer or other person that stores or treats the hazardous secondary material shall record the information specified in Subsections R315-261-1089(e)(1)(vi)(A) through R315-261-1089(e)(1)(vi)(C) for those unexpected control device system malfunctions that would require the control device not to meet the requirements of Subsection R315-261-1087(c)(1)(i), R315-261-1087(c)(1)(ii), or R315-261-1087(c)(1)(iii), as applicable.

(A) The occurrence and duration of each malfunction of the control device system.

(B) The duration of each period during a malfunction when gases, vapors, or fumes are vented from the hazardous secondary material management unit through the closed-vent system to the control device while the control device is not properly functioning.

(C) Actions taken during periods of malfunction to restore a malfunctioning control device to its normal or usual manner of operation.

(vii) Records of the management of carbon removed from a carbon adsorption system conducted in accordance with Subsection R315-261-1087(c)(3)(ii).

(f) The remanufacturer or other person that stores or treats the hazardous secondary material using a tank or container exempted under the hazardous secondary material organic concentration conditions specified in Subsection[~~s~~] R315-261-1082(c)[~~(1) or (c)(2)(i) through (vi)~~], shall prepare and maintain at the facility records documenting the information used for each material determination, [~~e.g.~~]for example, test results, measurements, calculations, and other documentation. If analysis results for material samples are used for the material determination, then the remanufacturer or other person that stores or treats the hazardous secondary material shall record the date, time, and location that each material sample is collected in accordance with applicable requirements of Section R315-261-1083.

(g) A remanufacturer or other person that stores or treats the hazardous secondary material designating a cover as ["]unsafe to inspect and monitor["] pursuant to Subsection R315-261-1084(l)[~~or Subsection R315-261-1085(g)~~] shall record and keep at facility the [~~following~~]information required by Subsections R315-261-1089(g)(1) through R315-261-1089(g)(3):

(1) [~~T~~]the identification numbers for hazardous secondary material management units with covers that are designated as ["]unsafe to inspect and monitor[~~,~~"];

(2) the explanation for each cover stating why the cover is unsafe to inspect and monitor[~~,~~]; and

(3) the plan and schedule for inspecting and monitoring each cover.

(h) The remanufacturer or other person that stores or treats the hazardous secondary material that is subject to Sections R315-261-1080 through R315-261-1089 and to the control device standards in 40 CFR part 60, subpart VV, or 40 CFR part 61, subpart V, may elect to demonstrate compliance with the applicable sections of Sections R315-261-1080 through R315-261-1089 by documentation either pursuant to Sections R315-261-1080 through R315-261-1089, or pursuant to [~~the provisions of~~]40 CFR part 60, subpart VV or 40 CFR part 61, subpart V, to the extent that the documentation required by 40 CFR parts 60 or 61 duplicates the documentation required by Section R315-261-1089.

R315-261-1093. Appendix IX to Rule 315-261-Hazardous Constituents.

Appendix IX to 40 CFR Part 261, 2022[~~2015~~] Ed., is [~~adopted and~~]incorporated by reference

KEY: hazardous waste
Date of Last Change: 2025[~~May 1, 2023~~]
Notice of Continuation: January 14, 2021
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R315-262**	**Filing ID: 56942**

Agency Information

1. Title catchline:	Environmental Quality, Waste Management and Radiation Control, Waste Management
Building:	MASOB
Street address:	195 N. 1950 W.
City, state:	Salt Lake City, Utah
Mailing address:	PO Box 144880
City, state and zip:	Salt Lake City, Utah 84114-4880

Contact persons:		
Name:	**Phone:**	**Email:**
Tom Ball	385-454-5587	tball@utah.gov
Kari Lundeen	385-499-4923	klundeen@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R315-262. Hazardous Waste Generator Requirements

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

The EPA made technical corrections that correct or clarify parts of the hazardous waste regulations. Examples of the types of corrections being made include correcting typographical errors, correcting incorrect or outdated citations, updating outdated and incorrect wording, and updating addresses.
The EPA made changes to regulations related to twelve hazardous waste import-export recovery and disposal operations used in hazardous waste export and import notices submitted to EPA by U.S. exporters and importers, and in movement documents that accompany export and import shipments.
These changes are being made in the Utah Hazardous Waste Rules because Utah is authorized to oversee the hazardous waste program in Utah and must have rules that are equivalent to the federal regulations.

4. Summary of the new rule or change:

Language is being added to R315-262-1(a)(1), R315-262-10(a)(2), R315-262-16, R315-262-17, R315-262-17(b), (c), (d), (e), and (f) to clarify that the rule applies to treatment, storage and disposal facilities.
Notes 1 and 2 at the bottom of Subsection R315-262-10(h) are being deleted. The text of Note 2 also existed as a Note to Subsection R315-262-10(o). The text of Note 1 is being made into Subsection R315-262-10(p) and the text of Note 2 is being made into Subsection R315-262-10(q).
The citation to Subsection R315-262-11(2)(f) found in Subsection R315-262-11(f)(4) is being corrected to Subsection R315-262-11(f).
Subsections R315-262-14(a)(3) and (4) are being amended to include additional clarifying language and citations to additional existing rules that apply to very small quantity generators of hazardous waste.
A citation to Subsection R315-262-16(c) is being added to Subsection R315-262-16(b).
Citations to Subsection R315-262-16(a)(8)(ii) found in Subsections R315-262-16(b)(8)(iv)(A) and (B) is being corrected to Subsection R315-262-16(b)(8)(ii).
Two rule titles are being removed from Subsection R315-262-17(a)(2) because they are not needed.
The citation to Subsection R315-262-17(a)(7)(iv) found in Subsection R315-262-17(a)(7)(i)(A) is being corrected to Subsection R315-262-17(a)(7)(iv)(C).
The information that defines a large quantity generator is being removed from Subsections R315-262-42(a)(1) and (2) because large quantity generator is defined elsewhere in the rules and the definition is not needed here.
The information that defines a small quantity generator is being removed from Subsection R315-262-42(b) because small quantity generator is defined elsewhere in the rules and the definition is not needed here.
Some of the code definitions contained in Section R315-262-81 are being amended so that they conform with regulations related to the Canadian import and export recovery disposal operations that Canada has promulgated.
The addresses for mail and hand delivery found in Subsections R315-262-82(e)(1) and (2) are being updated.
Some of the codes listed in Subsections R315-262-83(b)(3), R315-262-83(f)(6), R315-262-84(a)(2), R315-262-84(f)(6), R315-262-84(g)(2), and R315-262-84(h)(2)(iii) are being changed due to the changes made in Section R315-262-81.
The citation to Section R315-262-17 found in Subsection R315-262-200(a)(10) is being corrected to Subsection R315-262-16(b)(9)(iii) and language is being added to clarify that the rule applies to very small quantity generators that opt into Sections R315-262-200 through R315-262-216.
The citation to Subsections R315-261-5(c) and (d) found in Subsection R315-262-212(e)(3) is being corrected to Section R315-262-13.
Language is being added to Subsection R315-262-232(a)(5) to clarify that very small quantity generators must comply with the recordkeeping requirements found in Section R315-262-44.
Subsection R315-262-232(b)(4)(ii)(C) is being amended to clarify that it is applies to when an episodic event begins.
Additionally, the Division is correcting formatting and typographical errors discovered during the process of reviewing and amending the rule.

Fiscal Information

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

A) State budget:

It is not anticipated that the amendments to this rule will cause any cost or savings to the state budget because they do not add any new or remove any existing requirements from the rule.

B) Local governments:

It is not anticipated that the amendments to this rule will cause any cost or savings to local governments because they do not add any new or remove any existing requirements from the rule.

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

It is not anticipated that the amendments to this rule will cause any cost or savings to small businesses that must comply with the rule because they do not add any new or remove any existing requirements from the rule.

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

It is not anticipated that the amendments to this rule will cause any cost or savings to non-small businesses that must comply with the rule because they do not add any new or remove any existing requirements from the rule.

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 amendments to this rule will cause any cost or savings to persons other than small businesses, non-small businesses, state or local government entities that must comply with the rule because they do not add any new or remove any existing requirements from the rule.

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

Because the changes to this rule do not add any new or remove any existing requirements from the rule it is not anticipated that there will be any new compliance costs for any affected persons due to the changes.

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	**FY2025**	**FY2026**	**FY2027**
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	**FY2025**	**FY2026**	**FY2027**
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 19-6-105	Section 19-6-106	

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:	12/31/2024

9. This rule change MAY become effective on:	01/13/2025
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Director	Date:	11/14/2024

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-262. Hazardous Waste Generator Requirements.
R315-262-1. General -- Terms Used in [~~this Part~~]Rule R315-262.

(a) As used in Rule R315-262:

(1) "Condition for exemption" means any requirement in Sections R315-262-14, R315-262-15, R315-262-16, R315-262-17, R315-262-70, or Sections R315-262-200 through R315-262-216 or Sections R315-262-230 through R315-262-233 that states an event, action, or standard that shall occur or be met [~~in order to obtain~~]to get an exemption from any applicable requirement in Rules R315-124, R315-264 through R315-268, and R315-270, or from any requirement for notification under [~~s~~]Section 3010 of RCRA for treatment, storage, and disposal facilities.

(2) "Independent requirement" means a requirement of Rule R315-262 that states an event, action, or standard that shall occur or be met; and that applies without relation to, or irrespective of, the purpose of [~~obtaining~~]getting a conditional exemption from storage facility permit, interim status, and operating requirements under Sections R315-262-14, R315-262-15, R315-262-16, R315-262-17, or Sections R315-262-200 through R315-262-216 or Sections R315-262-230 through R315-262-233.

R315-262-10. General -- Purpose, Scope, and Applicability.

(a) The [~~rules~~]requirements in Rule R315-262 establish standards for generators of hazardous waste as defined by Section R315-260-10.

(1) A person who generates a hazardous waste as defined by Rule R315-261 is subject to the applicable independent requirements in Subsections R315-262-10(a)(1)(i) through R315-262-10(a)(1)(iii).

(i) Independent requirements of a very small quantity generator:
(A) Subsections R315-262-11(a) through R315-262-11(d) Hazardous waste determination and recordkeeping; and
(B) Section R315-262-13 Generator category determination.
(ii) Independent requirements of a small quantity generator:
(A) Section R315-262-11 Hazardous waste determination and recordkeeping;
(B) Section R315-262-13 Generator category determination;
(C) Section R315-262-18 EPA identification numbers and re-notification for small quantity generators and large quantity generators;
(D) Sections R315-262-20 through R315-262-27--Manifest requirements applicable to small and large quantity generators;
(E) Sections R315-262-30 through R315-262-34--Pre-transport requirements applicable to small and large quantity generators;
(F) Section R315-262-40 Recordkeeping;
(G) Section R315-262-44 Recordkeeping for small quantity generators; and
(H) Sections R315-262-80 through R315-262-84--Transboundary movements of hazardous waste for recovery or disposal.
(iii) Independent requirements of a large quantity generator:
(A) Section R315-262-11 Hazardous waste determination and recordkeeping;
(B) Section R315-262-13 Generator category determination;
(C) Section R315-262-18 EPA identification numbers and re-notification for small quantity generators and large quantity generators;
(D) Sections R315-262-20 through R315-262-27--Manifest requirements applicable to small and large quantity generators;

(E) Sections R315-262-30 through R315-262-34--Pre-transport requirements applicable to small and large quantity generators;

(F) Sections R315-262-40 through R315-262-44--Recordkeeping and reporting applicable to small and large quantity generators, except Section R315-262-44; and

(G) Sections R315-262-80 through R315-262-84--Transboundary movements of hazardous waste for recovery or disposal.

(2) A generator that accumulates hazardous waste on site is a person that stores hazardous waste[~~;~~]. [~~such~~] The generator is subject to the applicable requirements of Rules R315-124, R315-264 through R315-266, and R315-270 and [~~s~~]Section 3010 of RCRA for treatment, storage, and disposal facilities, unless it is one of the following:

(i) a very small quantity generator that meets the conditions for exemption in Section R315-262-14;

(ii) a small quantity generator that meets the conditions for exemption in Sections R315-262-15 and R315-262-16; or

(iii) a large quantity generator that meets the conditions for exemption in Sections R315-262-15 and R315-262-17.

(3) A generator [~~shall~~]may not transport, offer its hazardous waste for transport, or otherwise cause its hazardous waste to be sent to a facility that is not a designated facility, as defined in Section R315-260-10, or not otherwise authorized to receive the generator's hazardous waste.

(b) Determining generator category. A generator shall use Section R315-262-13 to determine [~~which provisions~~]the requirements of Rule R315-262 that are applicable to the generator based on the quantity of hazardous waste generated per calendar month.

(c) Reserved.

(d) Any person who exports or imports hazardous wastes shall comply with Section R315-262-18 and Sections R315-262-80 through R315-262-84.

(e) Any person who imports hazardous waste into the United States shall comply with the standards applicable to generators established in Rule R315-262.

(f) A farmer who generates waste pesticides [~~which~~]that are hazardous waste and who complies with the requirements of Section R315-262-70 is not required to comply with other standards in Rule R315-262 or Rule[~~s~~] R315-270, R315-264, R315-265, or R315-268 with respect to [~~such~~]the waste pesticides.

(1) A generator's violation of an independent requirement is subject to penalty and injunctive relief under Sections 19-6-112 and 19-6-113.

(2) A generator's noncompliance with a condition for exemption in Rule R315-262 is not subject to penalty or injunctive relief under Sections 19-6-112 and 19-6-113 as a violation of a Rule R315-262 condition for exemption. Noncompliance by any generator with an applicable condition for exemption from storage permit and operations requirements means that the facility is a storage facility operating without an exemption from the permit, interim status, and operations requirements in Rules R315-124, R315-264 through R315-266, and R315-270, and the notification requirements of [~~s~~]Section 3010 of RCRA. Without an exemption, any violations of [~~such~~]the storage requirements are subject to penalty and injunctive relief under Sections 19-6-112 and 19-6-113.

(h) An owner or operator who initiates a shipment of hazardous waste from a treatment, storage, or disposal facility shall comply with the generator standards established in Rule R315-262.

[~~Note 1: Section R315-262-34 is applicable to the on-site accumulation of hazardous waste by generators. Therefore, Section R315-262-34 only applies to owners or operators who are shipping hazardous waste which they generated at that facility.~~

~~Note 2: A generator who treats, stores, or disposes of hazardous waste on-site shall comply with the applicable standards and permit requirements set forth in Rules R315-264, R315-265, R315-266, R315-268, and R315-270.~~]

(i) Reserved.

(j) Reserved.

(k) Reserved.

(l) The laboratories owned by an eligible academic entity that chooses to be subject to the requirements of Sections R315-262-200 through R315-262-216 are not subject to, for purposes of Subsection R315-262-10(l), the terms "laboratory" and "eligible academic entity" shall have the meaning as defined in Section R315-262-200:

(1) the independent requirements of Section R315-262-11 or the [~~rules~~]requirements in Section R315-262-15 for large quantity generators and small quantity generators, except as provided in Sections R315-262-200 through R315-262-216; and

(2) the conditions of Section R315-262-14, for very small quantity generators, except as provided in Sections R315-262-200 through R315-262-216.

(m) Generators of lamps, as defined in Section R315-273-9, using a drum-top crusher, as defined in Section R315-273-9, shall meet the requirements of Subsection R315-273-13(d)(3), except for the registration requirement[~~;~~], and Subsections R315-273-13(d)(4) and R315-273-13(d)(5).

(n) Reverse distributors, as defined in Section R315-266-500, are subject to Sections R315-266-500 through R315-266-510 for the management of hazardous waste pharmaceuticals in lieu of Rule R315-262.

(o) Each healthcare facility, as defined in Section R315-266-500, shall determine whether it is subject to Sections R315-266-500 through R315-266-510 for the management of hazardous waste pharmaceuticals, based on the total hazardous waste it generates per calendar month, including both hazardous waste pharmaceuticals and non-pharmaceutical hazardous waste. A healthcare facility that generates more than 100 kg, 220 pounds, of hazardous waste per calendar month, or more than 1 kg, 2.2 pounds, of acute hazardous waste per calendar month, or more than 100 kg, 220 pounds, per calendar month of any residue or contaminated soil, water, or other debris, resulting from the clean[~~-~~] up of a spill, into or on any land or water, of any acute hazardous wastes listed in Section R315-261-31 or Subsection R315-261-33(e), is subject to Sections R315-266-500 through R315-266-510 for the management of hazardous waste pharmaceuticals in lieu of Rule R315-262. A healthcare facility that is a very small quantity generator when counting its hazardous waste, including both its hazardous waste pharmaceuticals and its non-pharmaceutical hazardous waste, remains subject to Section R315-262-14 and is not subject to Sections R315-266-500 through R315-266-510, except for Sections R315-266-505 and R315-266-507 and the optional [~~provisions~~]requirements of Section R315-266-504.

(p) Sections R315-262-15 through R315-262-17 are applicable to the on-site accumulation of hazardous waste by generators. Therefore, Sections R315-262-15 through R315-262-17 only apply to owners and operators who are shipping hazardous waste that they generated at that facility.

[~~Note:~~](q) A generator who treats, stores, or disposes of hazardous waste on-site shall comply with the applicable standards and permit requirements set forth in Rules R315-264, R315-265, R315-266, R315-268, and R315-270.

R315-262-11. General -- Hazardous Waste Determination and Recordkeeping.

A person who generates a solid waste, as defined in Section R315-261-2, shall make an accurate determination as to whether that waste is a hazardous waste [~~in order~~]to ensure wastes are properly managed according to applicable [~~regulations~~]rules. A hazardous waste determination is made using the following steps:

(a) The hazardous waste determination for each solid waste shall be made at the point of waste generation, before any dilution, mixing, or other alteration of the waste occurs, and at any time in the course of its management that it has, or may have, changed its properties as a result of exposure to the environment or other factors that may change the properties of the waste [~~such~~]so that the hazardous classification of the waste may change.

(b) A person shall determine whether the solid waste is excluded from regulation under Section R315-261-4.

(c) If the waste is not excluded under Section R315-261-4, the person shall then use knowledge of the waste to determine whether the waste meets any of the listing descriptions under Sections R315-261-30 through R315-261-35. Acceptable knowledge that may be used in making an accurate determination as to whether the waste is listed may include waste origin, composition, the process producing the waste, feedstock, and other reliable and relevant information. If the waste is listed, the person may file a delisting petition under Sections R315-260-20 and R315-260-22 to demonstrate to the [~~Director~~]director that the waste from this particular site or operation is not a hazardous waste.

(d) The person then shall also determine whether the waste exhibits one or more hazardous characteristics as identified in Sections R315-261-20 through R315-261-24 by following the procedures in Subsection[~~s~~] R315-262-11(d)(1) or R315-262-11(d)(2), or a combination of both.

(1) The person shall apply knowledge of the hazard characteristic of the waste in light of the materials or the processes used to generate the waste. Acceptable knowledge may include process knowledge, for example, information about chemical feedstocks and other inputs to the production process; knowledge of products, by-products, and intermediates produced by the manufacturing process; chemical or physical characterization of wastes; information on the chemical and physical properties of the chemicals used or produced by the process or otherwise contained in the waste; testing that illustrates the properties of the waste; or other reliable and relevant information about the properties of the waste or its constituents. A test other than a test method set forth in Sections R315-261-20 through R315-261-24, or an equivalent test method approved by the [~~Director~~]director under Section R315-260-21, may be used as part of a person's knowledge to determine whether a solid waste exhibits a characteristic of hazardous waste. However, [~~such~~]the tests do not, by themselves, provide definitive results. Persons testing their waste shall [~~obtain~~]get a representative sample of the waste for the testing, as defined at Section R315-260-10.

(2) [~~When~~]If available knowledge is inadequate to make an accurate determination, the person shall test the waste according to the applicable methods set forth in Sections R315-261-20 through R315-261-24 or according to an equivalent method approved by the [~~Director~~]director under Section R315-260-21 and in accordance with the following:

(i) Persons testing their waste shall [~~obtain~~]get a representative sample of the waste for the testing, as defined at Section R315-260-10.

(ii) [~~Where~~]If a test method is specified in Sections R315-261-20 through R315-261-24, the results of the regulatory test, [~~when~~]if properly performed, are definitive for determining the regulatory status of the waste.

(e) If the waste is determined to be hazardous, the generator shall refer to Rules R315-261, R315-264, R315-265, R315-266, R315-268, and R315-273 for other possible exclusions or restrictions pertaining to management of the specific waste.

(f) Recordkeeping for small and large quantity generators. A small or large quantity generator shall maintain records supporting its hazardous waste determinations, including records that identify whether a solid waste is a hazardous waste, as defined by Section R315-261-3. Records shall be maintained for at least three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal. These records shall comprise the generator's knowledge of the waste and support the generator's determination, as described at Subsections R315-262-11(c) and R315-262-11(d). The records shall include[~~, but are not limited to,~~] the following types of information:

(1) [~~T~~]the results of any tests, sampling, waste analyses, or other determinations made in accordance with [~~this s~~]Section R315-262-11;

(2) records documenting the tests, sampling, and analytical methods used to demonstrate the validity and relevance of [~~such~~]the tests;

(3) records consulted [~~in order~~]to determine the process [~~by which the waste was~~]that generated the waste, the composition of the waste, and the properties of the waste; and

(4) records [~~which~~]that explain the knowledge basis for the generator's determination, as described at Subsection R315-262-11(d)(1).

The periods of record retention referred to in Subsection R315-262-11[~~(2)~~](f) are extended automatically during [~~the course of~~]any unresolved enforcement action regarding the regulated activity or as requested by the [~~Director~~]director.

(g) Identifying hazardous waste numbers for small and large quantity generators. If the waste is determined to be hazardous, small quantity generators and large quantity generators shall identify any[~~all~~] applicable EPA hazardous waste numbers, EPA hazardous waste codes, in Sections R315-261-20 through R315-261-24 and R315-261-30 through R315-261-35. [~~Prior to~~]Before shipping the waste off site, the generator also shall mark its containers with any[~~all~~] applicable EPA hazardous waste numbers, EPA hazardous waste codes, according to Section R315-262-32.

R315-262-14. General -- Conditions For Exemption for a Very Small Quantity Generator.

(a) [~~Provided that~~]If the very small quantity generator meets the conditions for exemption listed in Section R315-262-14, hazardous waste generated by the very small quantity generator is not subject to the requirements of Rules R315-124, R315-262 through R315-268, except Sections R315-262-10 through R315-262-14,[~~ through R315-268~~] and Rule R315-270, and the notification requirements of [~~s~~]Section 3010 of RCRA and the very small quantity generator may accumulate hazardous waste on site without complying with [~~such~~]the requirements. The conditions for exemption are as follows:

(1) In a calendar month the very small quantity generator generates less than or equal to the amounts specified in the definition of "very small quantity generator" in Section R315-260-10;

(2) The very small quantity generator complies with Subsections R315-262-11(a) through R315-262-11(d);

(3) If the very small quantity generator accumulates at any time greater than 1 kilogram, 2.2 lbs, of acute hazardous waste or 100 kilograms, 220 lbs, of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in Section R315-261-31 or Subsection R315-261-33(e), the quantities of that acute hazardous waste are subject to the following additional conditions for exemption and independent requirements:

(i) [~~such~~]the waste is held on site for no more than 90 days beginning on the date when the accumulated wastes exceed the amounts provided in Subsection R315-262-14(a)(3);[~~ and~~]

(ii) the conditions for exemption in Subsections R315-262-17(a) through R315-262-17(g)[~~.~~];

(iii) notification as a "very small quantity generator" under Subsections R315-262-18(a) through R315-262-18(c);

(iv) preparation and use of the manifest in Sections R315-262-20 through R315-262-27;

(v) pre-transport requirements in Sections R315-262-30 through R315-262-35;

(vi) recordkeeping and reporting requirements of Sections R315-262-40 through R315-262-44; and

(vii) requirements for transboundary movements of hazardous wastes in Sections R315-262-80 through R315-262-89;

(4) If the very small quantity generator accumulates at any time 1,000 kilograms, 2,200 lbs, or greater of non-acute hazardous waste, the quantities of that hazardous waste are subject to the following additional conditions for exemption and independent requirements:

(i) [~~such~~]the waste is held on site for no more than 180 days, or 270 days, if applicable, beginning on the date when the accumulated waste exceeds the amounts provided in Subsection R315-262-14(a)(4);

(ii) the quantity of waste accumulated on site never exceeds 6,000 kilograms, 13,200 lbs;[~~ and~~]

(iii) the conditions for exemption in Subsections R315-262-16(b)(2) through R315-262-16(f)[~~.~~];

(iv) notification as a "very small quantity generator" under Subsections R315-262-18(a) through R315-262-18(c);

(v) preparation and use of the manifest in Sections R315-262-20 through R315-262-27;

(vi) pre-transport requirements in Sections R315-262-30 through R315-262-35;

(vii) recordkeeping and reporting requirements of Sections R315-262-40 through R315-262-44; and

(viii) requirements for transboundary movements of hazardous wastes in Sections R315-262-80 through R315-262-89; and

(5) A very small quantity generator that accumulates hazardous waste in amounts less than or equal to the limits in Subsections R315-262-14(a)(3) and R315-262-14(a)(4) shall either treat or dispose of its hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, either of which, if located in the U.S., is:

(i) permitted under Rule R315-270;

(ii) in interim status under Rules R315-265 and R315-270;

(iii) authorized to manage hazardous waste by a state with a hazardous waste management program approved under 40 CFR 271;

(iv) permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill is subject to Rules R315-301 through R315-32[~~0~~]2;

(v) permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit, is subject to the requirements in Rules R315-301 through R315-32[~~0~~]2 or 40 CFR 257.5 through 257.30;

(vi) a facility [~~which~~]that:

(A) beneficially uses or reuses, or legitimately recycles or reclaims its waste; or

(B) treats its waste [~~prior to~~]before beneficial use or reuse, or legitimate recycling or reclamation;

(vii) for universal waste managed under Rule R315-273, a universal waste handler or destination facility subject to the requirements of Rule R315-273;

(viii) a large quantity generator under the control of the [~~same~~]person [~~as~~]who controls the very small quantity generator, provided the following conditions are met:

(A) The person, as defined in Section R315-260-10, who controls the very small quantity generator [~~and~~]also controls the large quantity generator[~~ are under the control of the same person as defined in Section R315-260-10~~]. "Control," for the purposes of Subsection R315-262-14(a)(5)(viii), means the power to direct the policies of the generator, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate generator facilities on behalf of a different person as defined in Section R315-260-10 [~~shall~~]may not be [~~deemed~~]considered to "control" [~~such~~]the generators.

(B) The very small quantity generator marks its containers of hazardous waste with:

(1) [~~T~~]the words "Hazardous Waste"; and

(2) [~~A~~]an indication of the hazards of the contents, examples include[~~, but are not limited to~~]:

(I) the applicable hazardous waste characteristics, ignitable, corrosive, reactive, toxic;

(II) hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E, labeling, or subpart F, placarding;

(III) a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or

(IV) a chemical hazard label consistent with the National Fire Protection Association code 704[~~.~~];

(ix) [~~A~~]a reverse distributor, as defined in Section R315-266-500, if the hazardous waste pharmaceutical is a potentially creditable hazardous waste pharmaceutical generated by a healthcare facility, as defined in Section R315-266-500[~~.~~]; or

(x) [~~A~~]a healthcare facility, as defined in Section R315-266-500, that meets the conditions in Subsections R315-266-502(l) and R315-266-503(b), as applicable, to accept non-creditable hazardous waste pharmaceuticals and potentially creditable hazardous waste pharmaceuticals from an off-site healthcare facility that is a very small quantity generator.

(xi) For airbag waste, an airbag waste collection facility or a designated facility subject to the requirements of Subsection R315-261-4(j).

(b) The placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing free liquids, whether or not sorbents have been added, in any landfill is prohibited.

(c) A very small quantity generator experiencing an episodic event may generate and accumulate hazardous waste in accordance with Sections R315-262-230 through R315-262-233 in lieu of Sections R315-262-15, R315-262-16, and R315-262-17.

R315-262-16. General -- Conditions for Exemption for a Small Quantity Generator that Accumulates Hazardous Waste.

A small quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of Rules R315-124, R315-264 through R315-266, and R315-270, or the notification requirements of [~~s~~]Section 3010 of RCRA for treatment, storage, and disposal facilities, [~~provided that all~~]if the conditions for exemption listed in Section R315-262-16 are met[~~:~~].

(a) Generation. The generator generates in a calendar month no more than the amounts specified in the definition of "small quantity generator" in Section R315-260-10.

(b) Accumulation. The generator accumulates hazardous waste on site for no more than 180 days, unless in compliance with the conditions for exemption for longer accumulation in Subsections R315-262-16(c), R315-262-16(d) and R315-262-16(e). The following accumulation conditions also apply:

(1) Accumulation limit. The quantity of hazardous waste accumulated on site never exceeds 6,000 kilograms, [~~(~~]13,200 pounds[~~),~~].

(2) Accumulation of hazardous waste in containers.

(i) Condition of containers. If a container holding hazardous waste is not in good condition, or if it begins to leak, the small quantity generator shall immediately transfer the hazardous waste from this container to a container that is in good condition, or immediately manage the waste in[~~some~~] another way that complies with the conditions for exemption of Section R315-262-16.

(ii) Compatibility of waste with container. The small quantity generator shall use a container made of or lined with materials that will not react with, and are otherwise compatible with, the hazardous waste to be accumulated, so that the ability of the container to contain the waste is not impaired.

(iii) Management of containers.

(A) A container holding hazardous waste shall always be closed during accumulation, except when it is necessary to add or remove waste.

(B) A container holding hazardous waste [~~shall~~]may not be opened, handled, or accumulated in a manner that may rupture the container or cause it to leak.

(iv) Inspections. At least weekly, the small quantity generator shall inspect central accumulation areas. The small quantity generator shall look for leaking containers and for deterioration of containers caused by corrosion or other factors. See Subsection R315-262-16(b)(2)(i) for remedial action required if deterioration or leaks are detected.

(v) Special conditions for accumulation of incompatible wastes.

(A) Incompatible wastes, or incompatible wastes and materials, [~~(~~]see appendix V of [~~40 CFR~~]Rule R315-265 in Section R315-265-1400 for examples[~~)~~], [~~shall~~]may not be placed in [~~the same~~]a container together, unless Subsection R315-265-17(b)[~~40 CFR 265.17(b), which is incorporated by reference in Section R315-265-1,~~] is complied with.

(B) Hazardous waste [~~shall~~]may not be placed in an unwashed container that previously held an incompatible waste or material, [~~(~~]see appendix V of [~~40 CFR 265~~]Rule R315-265 in Section R315-265-1400 for examples[~~)~~], unless Subsection R315-265-17(b)[~~40 CFR 265.17(b), which is incorporated by reference in Section R315-265-1,~~] is complied with.

(C) A container accumulating hazardous waste that is incompatible with any waste or other materials accumulated or stored nearby in other containers, piles, open tanks, or surface impoundments shall be separated from the other materials or protected from them by [~~means of~~]a dike, berm, wall, or other device.

(3) Accumulation of hazardous waste in tanks.

(i) Reserved.

(ii) A small quantity generator of hazardous waste shall comply with the following general operating conditions:

(A) Treatment or accumulation of hazardous waste in tanks shall comply with Subsection R315-265-17(b)[~~40 CFR 265.17(b), which is incorporated by reference in Section R315-265-1~~].

(B) Hazardous wastes or treatment reagents [~~shall~~]may not be placed in a tank if they could cause the tank or its inner liner to rupture, leak, corrode, or otherwise fail before the end of its intended life.

(C) Uncovered tanks shall be operated to ensure at least 60 centimeters, [~~(~~]2 feet,[~~)~~] of freeboard, unless the tank is equipped with a containment structure, for example, a [~~(e.g., ~~]dike or trench[~~)~~], a drainage control system, or a diversion structure, for example a [~~(e.g., ~~]standby tank[~~)~~] with a capacity that equals or exceeds the volume of the top 60 centimeters, [~~(~~]2 feet,[~~)~~] of the tank.

(D) [~~Where~~]If hazardous waste is continuously fed into a tank, the tank shall be equipped with a means to stop this inflow, for example a[~~(e.g.~~], waste feed cutoff system or by-pass system to a stand-by tank[~~)~~].

(iii) Except as noted in Subsection R315-262-16(b)(3)(iv), a small quantity generator that accumulates hazardous waste in tanks shall inspect, [~~where~~]if present:

(A) [~~D~~]ddischarge control equipment, for example [~~(e.g., ~~]waste feed cutoff systems, by-pass systems, and drainage systems[~~)~~] at least once each operating day, to ensure that it is in good working order;

(B) [~~D~~]data gathered from monitoring equipment, for example [~~(e.g., ~~]pressure and temperature gauges[~~)~~], at least once each operating day to ensure that the tank is being operated according to its design;

(C) [~~T~~]the level of waste in the tank at least once each operating day to ensure compliance with Subsection R315-262-16(b)(3)(ii)(C);

(D) [~~T~~]the construction materials of the tank at least weekly to detect corrosion or leaking of fixtures or seams; and

(E) [~~T~~]the construction materials of, and the area immediately surrounding, discharge confinement structures, for example, [~~(e.g., ~~]dikes[~~)~~], at least weekly to detect erosion or obvious signs of leakage, for example,[~~(e.g.,~~] wet spots or dead vegetation[~~)~~]. The generator shall remedy any deterioration or malfunction of equipment or structures [~~which~~]that the inspection reveals on a schedule [~~which~~]that ensures that the problem does not lead to an environmental or human health hazard. [~~Where~~]If a hazard is imminent or has already occurred, remedial action shall be taken immediately.

(iv) A small quantity generator accumulating hazardous waste in tanks or tank systems that have full secondary containment and that either use leak detection equipment to alert personnel to leaks, or implement established workplace practices to ensure leaks are promptly identified, shall inspect at least weekly, [~~where~~]if applicable, the areas identified in Subsections R315-262-16(b)(3)(iii)(A) through R315-262-16(b)(3)(iii)(E). Use of the alternate inspection schedule shall be documented in the generator's operating record. This documentation shall include a description of the established workplace practices at the generator.

(v) Reserved.

(vi) A small quantity generator accumulating hazardous waste in tanks shall, upon closure of the facility, remove any[~~all~~] hazardous waste from tanks, discharge control equipment, and discharge confinement structures. At closure, as throughout the operating period, unless the small quantity generator can demonstrate, in accordance with Subsection R315-261-3(c) or R315-261-3(d), that any solid waste removed from its tank is not a hazardous waste, then it shall manage [~~such~~]the waste in accordance with the[~~all~~] applicable [~~provisions~~]requirements of Rules R315-262, R315-263, R315-265, and R315-268.

(vii) A small quantity generator shall comply with the following special conditions for accumulation of ignitable or reactive waste:

(A) Ignitable or reactive waste [~~shall~~]may not be placed in a tank, unless:

(I) [~~T~~]the waste is treated, rendered, or mixed before or immediately after placement in a tank so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under Section R315-261-21 or R315-261-23 and Subsection R315-265-17(b)[~~40 CFR 265.17(b), which is incorporated by reference in Section R315-265-1,~~] is complied with; or

(II) [~~T~~]the waste is accumulated or treated in [~~such~~]a way that it is protected from any material or conditions that may cause the waste to ignite or react; or

(III) [~~T~~]the tank is used solely for emergencies.

(B) A small quantity generator [~~which~~]that treats or accumulates ignitable or reactive waste in covered tanks shall comply with the buffer zone requirements for tanks contained in Tables 2-1 through 2-6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code," [~~(~~]1977 or 1981[~~)~~], incorporated by reference, see Section R315-260-11.

(C) A small quantity generator shall comply with the following special conditions for incompatible wastes:

(I) Incompatible wastes, or incompatible wastes and materials, [~~(~~]see [~~40 CFR 265 ~~]appendix V of Rule R315-265 in Section R315-265-1400 for examples[~~)~~], [~~shall~~]may not be placed in [~~the same~~]a tank together, unless Subsection R315-265-17(b)[~~40 CFR 265.17(b), which is incorporated by reference in Section R315-265-1,~~] is complied with.

(II) Hazardous waste [~~shall~~]may not be placed in an unwashed tank that previously held an incompatible waste or material, unless Subsection R315-265-17(b)[~~40 CFR 265.17(b), which is incorporated by reference in Section R315-265-1,~~] is complied with.

(4) Accumulation of hazardous waste on drip pads. If the waste is placed on drip pads, the small quantity generator shall comply with the following:

(i) [~~40 CFR ~~]Sections R315-265[~~-~~]-440 through R315-265[~~-~~]-445, [~~which is incorporated by reference in Section R315-265-1, ~~]except Subsection R315-265[~~-~~]-445(c);

(ii) The small quantity generator shall remove any[~~all~~] wastes from the drip pad at least once [~~every~~]each 90 days. Any hazardous wastes that are removed from the drip pad at least once [~~every~~]each 90 days are then subject to the 180-day accumulation limit in Subsection[~~s~~] R315-262-16(b) and Section R315-262-15 if hazardous wastes are being managed in satellite accumulation areas [~~prior to~~]before being moved to the central accumulation area; and

(iii) The small quantity generator shall maintain on site at the facility the following records readily available for inspection:

(A) A written description of procedures that are followed to ensure that any[~~all~~] wastes are removed from the drip pad and associated collection system at least once [~~every~~]each 90 days; and

(B) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal.

(5) Accumulation of hazardous waste in containment buildings. If the waste is placed in containment buildings, the small quantity generator shall comply with [~~of 40 CFR ~~]Sections R315-265[~~-~~]-1100 through R315-265[~~-~~]-1102[~~, which is incorporated by reference in Section R315-265-1~~]. The generator shall label its containment buildings with the words "Hazardous Waste" in a conspicuous place easily visible to employees, visitors, emergency responders, waste handlers, or other persons on site and also in a conspicuous place provide an indication of the hazards of the contents, examples include[~~, but are not limited to,~~] the applicable hazardous waste characteristic[~~(~~]s[~~)~~], that is, [~~i.e., ~~]ignitable, corrosive, reactive, toxic; hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E, labeling, or subpart F, placarding; a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704. The generator shall also maintain:

(i) [~~T~~]the professional engineer certification that the building complies with the design standards specified in [~~40 CFR~~]Section R315-265[~~,~~]-1101[~~, which is incorporated by reference in Section R315-265-1~~]. This certification shall be in the generator's files [~~prior to~~]before operation of the unit; and

(ii) [~~T~~]the following records by use of inventory logs, monitoring equipment, or any other effective means:

(A) A written description of procedures to ensure that each waste volume remains in the unit for no more than 90 days, a written description of the waste generation and management practices for the facility showing that the generator is consistent with maintaining the 90 -day limit, and documentation that the procedures are complied with; or

(B) Documentation that the unit is emptied at least once [~~every~~]each 90 days.

(C) Inventory logs or records with the [~~above~~]information required by Subsections R315-262-16(b)(5)(ii)(A) and R315-262-16(b)(95)(ii)(B) shall be maintained on site and readily available for inspection.

(6) Labeling and marking of containers and tanks.

(i) Containers. A small quantity generator shall mark or label its containers with the following:

(A) The words "Hazardous Waste";

(B) An indication of the hazards of the contents, examples include[~~, but are not limited to~~]:

(I) the applicable hazardous waste characteristic[~~(~~]s[~~)~~], that is,[~~i.e.,~~] ignitable, corrosive, reactive, toxic;

(II) hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E, labeling, or subpart F, placarding;

(III) a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or

(IV) a chemical hazard label consistent with the National Fire Protection Association code 704; and

(C) The date [~~upon which~~]when each period of accumulation begins clearly visible for inspection on each container.

(ii) Tanks. A small quantity generator accumulating hazardous waste in tanks shall do the following:

(A) Mark or label its tanks with the words "Hazardous Waste";

(B) Mark or label its tanks with an indication of the hazards of the contents, examples include[~~, but are not limited to~~]:

(I) the applicable hazardous waste characteristic[~~(~~]s[~~)~~], that is,[~~i.e.,~~] ignitable, corrosive, reactive, toxic;

(II) hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E, labeling, or subpart F, placarding;

(III) a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or

(IV) a chemical hazard label consistent with the National Fire Protection Association code 704;

(C) Use inventory logs, monitoring equipment, or other records to demonstrate that hazardous waste has been emptied within 180 days of first entering the tank if using a batch process, or in the case of a tank with a continuous flow process, demonstrate that estimated volumes of hazardous waste entering the tank daily exit the tank within 180 days of first entering; and

(D) Keep inventory logs or records with the [~~above~~]information required by Subsection R315-262-16(b)(6)(ii)(C) on site and readily available for inspection.

(7) Land disposal restrictions. A small quantity generator shall comply with [~~all~~]the applicable requirements under Rule R315-268.

(8) Preparedness and prevention.

(i) Maintenance and operation of facility. A small quantity generator shall maintain and operate its facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water [~~which~~]that could threaten human health or the environment.

(ii) Required equipment. Any[~~All~~] areas where hazardous waste is either generated or accumulated shall be equipped with the items in Subsections R315-262-16(b)(8)(ii)(A) through R315-262-16(b)(8)(ii)(D), unless none of the hazards posed by waste handled at the facility could require a particular kind of equipment specified [~~below~~]in Subsections R315-262-16(b)(8)(ii)(A) through R315-262-16(b)(8)(ii)(D) or the actual waste generation or accumulation area does not lend itself for safety reasons to have a particular kind of equipment specified [~~below~~]in Subsections R315-262-16(b)(8)(ii)(A) through R315-262-16(b)(8)(ii)(D). A small quantity generator may determine the most appropriate locations to locate equipment necessary to prepare for and respond to emergencies.

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

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

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

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

(iii) Testing and maintenance of equipment. [~~All c~~]Communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, [~~where~~]if required, shall be tested and maintained as necessary to assure its proper operation in time of emergency.

(iv) Access to communications or alarm system.

(A) When[~~ever~~] hazardous waste is being poured, mixed, spread, or otherwise handled, any[~~all~~] personnel involved in the operation shall have immediate access, for example[~~e.g.~~], direct or unimpeded access, to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required under Subsection R315-262-16[~~(a)~~](b)(8)(ii).

(B) In the event there is just one employee on the premises while the facility is operating, the employee shall have immediate access, for example[~~e.g.~~], direct or unimpeded access, to a device, such as a telephone, immediately available at the scene of operation, or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required under Subsection R315-262-16[~~(a)~~](b)(8)(ii).

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

(vi) Arrangements with local authorities.

(A) The small quantity generator shall [~~attempt~~]try to make arrangements with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers and local hospitals, taking into account the types and quantities of hazardous wastes handled at the facility. Arrangements may be made with the Local Emergency Planning Committee, if it is determined to be the appropriate organization [~~with which to make~~]for the arrangements.

(I) A small quantity generator [~~attempting~~]trying to make arrangements with its local fire department shall determine the potential need for the services of the local police department, other emergency response teams, emergency response contractors, equipment suppliers and local hospitals.

(II) As part of this coordination, the small quantity generator shall [~~attempt~~]try to make arrangements, as necessary, to familiarize the [~~above~~]organizations listed in Subsection R315-262-16(b)(8)(vi)(A) with the layout of the facility, the properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes as well as the types of injuries or illnesses that could result from fires, explosions, or releases at the facility.

(III) [~~Where~~]If more than one police or fire department might respond to an emergency, the small quantity generator shall [~~attempt~~]try to make arrangements designating primary emergency authority to a specific fire or police department, and arrangements with any others to provide support to the primary emergency authority.

(B) A small quantity generator shall maintain records documenting the arrangements with the local fire department as well as any other organization necessary to respond to an emergency. This documentation shall include documentation in the operating record that either confirms [~~such~~]the arrangements actively exist or, [~~in cases where~~]if no arrangements exist, confirms that [~~attempts~~]the small quantity generator tried to make [~~such~~]the arrangements[~~ were made~~].

(C) A facility [~~possessing~~]that has 24-hour response capabilities may seek a waiver from the authority having jurisdiction (AHJ) over the fire code within the facility's state or locality as far as needing to make arrangements with the local fire department as well as any other organization necessary to respond to an emergency, [~~provided that~~]if the waiver is documented in the operating record.

(9) Emergency procedures. The small quantity generator complies with the following conditions for those areas of the generator facility where hazardous waste is generated and accumulated:

(i) [~~At all times t~~]There shall always be at least one employee either on the premises or on call, that is,[~~i.e.,~~] available to respond to an emergency by reaching the facility within a short period[~~ of time~~], with the responsibility for coordinating any[~~all~~] emergency response measures specified in Subsection R315-262-16(b)(9)(iv). This employee is the emergency coordinator.

(ii) The small quantity generator shall post the following information next to telephones or in areas directly involved in the generation and accumulation of hazardous waste:

(A) The name and emergency telephone number of the emergency coordinator;

(B) Location of fire extinguishers and spill control material, and, if present, fire alarm; and

(C) The telephone number of the fire department, unless the facility has a direct alarm.

(iii) The small quantity generator shall ensure that [~~all~~]employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies;

(iv) The emergency coordinator or [~~his~~]the emergency coordinator's designee shall respond to any emergencies that arise. The applicable responses are as follows:

(A) In the event of a fire, call the fire department or [~~attempt~~]try to extinguish it using a fire extinguisher;

(B) In the event of a spill, the small quantity generator is responsible for containing the flow of hazardous waste to the extent possible, and as soon as is practicable, cleaning up the hazardous waste and any contaminated materials or soil. [~~Such~~] The containment and cleanup can be conducted either by the small quantity generator or by a contractor on behalf of the small quantity generator;

(C) In the event of a fire, explosion, or other release that could threaten human health outside the facility or when the small quantity generator has knowledge that a spill has reached surface water, the small quantity generator shall immediately notify the National Response Center, using their 24-hour toll free number 800[~~/~~]-424-8802 and the state environmental incident reporting program at 801[~~/~~]-536-0200 or after hours at 801[~~/~~]-536-4123. The report shall include the following information:

(I) The name, address, and U.S. EPA identification number of the small quantity generator;

(II) Date, time, and type of incident, for example[~~e.g.~~], spill or fire;

(III) Quantity and type of hazardous waste involved in the incident;

(IV) Extent of injuries, if any; and

(V) Estimated quantity and disposition of recovered materials, if any.

(c) Transporting over 200 miles. A small quantity generator who shall transport its waste, or offer its waste for transportation, over a distance of 200 miles or more for off-site treatment, storage or disposal may accumulate hazardous waste on site for 270 days or less without a permit or without having interim status [~~provided that~~]if the generator complies with the conditions of Subsection R315-262-16(b).

(d) Accumulation time limit extension. A small quantity generator who accumulates hazardous waste for more than 180 days, [~~(~~]or for more than 270 days if it shall transport its waste, or offer its waste for transportation, over a distance of 200 miles or more,[~~)~~] is subject to the requirements of Rules R315-264, R315-265, R315-268, and R315-270 unless it has been granted an extension to the 180-day, [~~(~~]or 270-

day if applicable[~~)~~], period. [~~Such~~] The extension may be granted by the [~~Director~~]director if hazardous wastes shall remain on site for longer than 180 days, [~~(~~]or 270 days if applicable[~~)~~], due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the [~~Director~~]director on a case-by-case basis.

(e) Rejected load. A small quantity generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy [~~provisions~~]requirements of Section R315-264-72 or R315-265-72[~~40 CFR 265.72, which is incorporated by reference in R315-265-1,~~] may accumulate the returned waste on site in accordance with Subsections R315-262-16(a) through R315-262-16(d). Upon receipt of the returned shipment, the generator shall:

(1) [~~S~~]sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or

(2) [~~S~~]sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.

(f) A small quantity generator experiencing an episodic event may accumulate hazardous waste in accordance with Sections R315-262-230 through R315-262-233 in lieu of Section R315-262-17.

R315-262-17. General -- Conditions for Exemption for a Large Quantity Generator that Accumulates Hazardous Waste.

A large quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of Rules R315-124, R315-264 through R315-266, and R315-270, or the notification requirements of [~~s~~]Section 3010 of RCRA for treatment, storage, and disposal facilities, if [~~provided that all~~]each of the following conditions for exemption are met:

(a) Accumulation. A large quantity generator accumulates hazardous waste on site for no more than 90 days, unless in compliance with the accumulation time limit extension or F006 accumulation conditions for exemption in Subsections R315-262-17(b) through R315-262-17(e). The following accumulation conditions also apply:

(1) Accumulation of hazardous waste in containers. If the hazardous waste is placed in containers, the large quantity generator shall comply with the following:

(i) Air emission standards. The applicable requirements of [~~40 CFR~~]Sections R315-265[~~-~~]-1030 through R315-265[~~-~~]-1035, R315-265[~~-~~]-1050 through R315-265[~~-~~]-1064, and R315-265[~~-~~]-1080 through R315-265[~~-~~]-1090[~~, which are incorporated by reference in Section R315-265-1~~];

(ii) Condition of containers. If a container holding hazardous waste is not in good condition, or if it begins to leak, the large quantity generator shall immediately transfer the hazardous waste from this container to a container that is in good condition, or immediately manage the waste in[~~some~~] another way that complies with the conditions for exemption of [~~this s~~]Section R315-262-17;

(iii) Compatibility of waste with container. The large quantity generator shall use a container made of or lined with materials that will not react with, and are otherwise compatible with, the hazardous waste to be stored, so that the ability of the container to contain the waste is not impaired;

(iv) Management of containers.

(A) A container holding hazardous waste shall always be closed during accumulation, except when it is necessary to add or remove waste.

(B) A container holding hazardous waste [~~shall~~]may not be opened, handled, or stored in a manner that may rupture the container or cause it to leak.

(v) Inspections. At least weekly, the large quantity generator shall inspect central accumulation areas. The large quantity generator shall look for leaking containers and for deterioration of containers caused by corrosion or other factors. See Subsection R315-262-17(a)(1)(ii) for remedial action required if deterioration or leaks are detected.

(vi) Special conditions for accumulation of ignitable and reactive wastes.

(A) Containers holding ignitable or reactive waste shall be located at least 15 meters, [~~(~~]50 feet,[~~)~~] from the facility's property line unless a written approval is [~~obtained~~]received from the authority having jurisdiction over the local fire code allowing hazardous waste accumulation to occur within this restricted area. A record of the written approval shall be maintained as long as ignitable or reactive hazardous waste is accumulated in this area.

(B) The large quantity generator shall take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste shall be separated and protected from sources of ignition or reaction including but not limited to the following: Open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks that are [~~(~~]static, electrical, or mechanical[~~)~~], spontaneous ignition, for example[~~e.g.~~], from heat-producing chemical reactions, and radiant heat. While ignitable or reactive waste is being handled, the large quantity generator shall confine smoking and open flame to specially designated locations. "No Smoking" signs shall be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

(vii) Special conditions for accumulation of incompatible wastes.

(A) Incompatible wastes, or incompatible wastes and materials, see appendix V of [~~40 CFR~~]Rule R315-265 in Section R315-265-1400 for examples, [~~shall~~]may not be placed in [~~the same~~]a container together, unless Subsection R315-265-17(b)[~~40 CFR 265.17(b), which is incorporated by reference in Section R315-265-1,~~] is complied with.

(B) Hazardous waste [~~shall~~]may not be placed in an unwashed container that previously held an incompatible waste or material, see appendix V of [~~40 CFR~~]Rule R315-265 in Section R315-265-1400 for examples, unless Subsection R315-265-17(b)[~~40 CFR 265.17(b), which is incorporated by reference in Section R315-265-1,~~] is complied with.

(C) A container holding a hazardous waste that is incompatible with any waste or other materials accumulated or stored nearby in other containers, piles, open tanks, or surface impoundments shall be separated from the other materials or protected from them by [~~means of~~]a dike, berm, wall, or other device.

(2) Accumulation of hazardous waste in tanks. If the waste is placed in tanks, the large quantity generator shall comply with the applicable requirements of [~~40 CFR~~]Sections R315-265[~~-~~]-190 through R315-265[~~-~~]-202, except Subsection R315-265[~~-~~]-197(c) [~~of Closure~~

~~and post-closure care~~]and Section R315-265[~~.~~]-200, [~~Waste analysis and trial tests,~~]as well as the applicable requirements of Sections R315-265[~~.~~]-1030 through R315-265[~~.~~]-1035, R315-265[~~.~~]-1050 through R315-265[~~.~~]-1064, and R315-265[~~.~~]-1080 through R315-265[~~.~~]-1090[~~, which are incorporated by reference in Section R315-265-1~~].

(3) Accumulation of hazardous waste on drip pads. If the hazardous waste is placed on drip pads, the large quantity generator shall comply with the following:

(i) [~~40 CFR~~]Sections R315-265[~~.~~]-440 through R315-265[~~.~~]-445[~~, which are incorporated by reference in Section R315-265-1~~];

(ii) The large quantity generator shall remove[~~all~~] wastes from the drip pad at least once [~~every~~]each 90 days. Any hazardous wastes that are removed from the drip pad are then subject to the 90-day accumulation limit in Subsection R315-262-17(a) and Section R315-262-15, if the hazardous wastes are being managed in satellite accumulation areas [~~prior to~~]before being moved to a central accumulation area; and

(iii) The large quantity generator shall maintain on site at the facility the following records readily available for inspection:

(A) A written description of procedures that are followed to ensure that[~~all~~] wastes are removed from the drip pad and associated collection system at least once [~~every~~]each 90 days; and

(B) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal.

(4) Accumulation of hazardous waste in containment buildings. If the waste is placed in containment buildings, the large quantity generator shall comply with [~~40 CFR~~]Sections R315-265[~~.~~]-1100 through R315-265[~~.~~]-1102[~~, which are incorporated by reference in Section R315-265-1~~]. The generator shall label its containment building with the words "Hazardous Waste" in a conspicuous place easily visible to employees, visitors, emergency responders, waste handlers, or other persons on site, and also in a conspicuous place provide an indication of the hazards of the contents, examples include[~~, but are not limited to,~~] the applicable hazardous waste characteristic[~~(~~]s[~~)~~], that is,[~~i.e.,~~] ignitable, corrosive, reactive, toxic[~~)~~]; hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E, labeling, or subpart F, placarding; a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704. The generator shall also maintain:

(i) [~~T~~]the professional engineer certification that the building complies with the design standards specified in [~~40 CFR~~]Section R315-265[~~.~~]-1101[~~, which is incorporated by reference in Section R315-265-1~~]. This certification shall be in the generator's files [~~prior to~~]before operation of the unit; and

(ii) [~~T~~]the following records by use of inventory logs, monitoring equipment, or any other effective means:

(A) A written description of procedures to ensure that each waste volume remains in the unit for no more than 90 days, a written description of the waste generation and management practices for the facility showing that the generator is consistent with respecting the 90-day limit, and documentation that the procedures are complied with; or

(B) Documentation that the unit is emptied at least once [~~every~~]each 90 days.

(C) Inventory logs or records with the [~~above~~]information required by Subsections R315-262-17(a)(4)(ii)(A) and R315-262-17(a)(4)(ii)(B) shall be maintained on site and readily available for inspection.

(5) Labeling and marking of containers and tanks.

(i) Containers. A large quantity generator shall mark or label its containers with the following:

(A) The words "Hazardous Waste";

(B) An indication of the hazards of the contents, examples include[~~, but are not limited to~~]:

(I) the applicable hazardous waste characteristic[~~(~~]s[~~)~~], that is,[~~i.e.,~~] ignitable, corrosive, reactive, toxic;

(II) hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E, labeling, or subpart F, placarding;

(III) a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or

(IV) a chemical hazard label consistent with the National Fire Protection Association code 704; and

(C) The date [~~upon which~~]that each period of accumulation begins clearly visible for inspection on each container.

(ii) Tanks. A large quantity generator accumulating hazardous waste in tanks shall do the following:

(A) Mark or label its tanks with the words "Hazardous Waste";

(B) Mark or label its tanks with an indication of the hazards of the contents, examples include[~~, but are not limited to~~]:

(I) the applicable hazardous waste characteristic[~~(~~]s[~~)~~], that is,[~~i.e.,~~] ignitable, corrosive, reactive, toxic;

(II) hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E, labeling, or subpart F, placarding;

(III) a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or

(IV) a chemical hazard label consistent with the National Fire Protection Association code 704;

(C) Use inventory logs, monitoring equipment or other records to demonstrate that hazardous waste has been emptied within 90 days of first entering the tank if using a batch process, or in the case of a tank with a continuous flow process, demonstrate that estimated volumes of hazardous waste entering the tank daily exit the tank within 90 days of first entering; and

(D) Keep inventory logs or records with the [~~above~~]information required by Subsection R315-262-17(a)(5)(ii)(C) on site and readily available for inspection.

(6) Emergency procedures. The large quantity generator complies with the standards in Sections R315-262-250 through R315-262-265, Preparedness, Prevention and Emergency Procedures for Large Quantity Generators.

(7) Personnel training.

(i)(A) Facility personnel shall successfully [~~complete~~]finish a program of classroom instruction, online training, for example[~~e.g.~~], computer-based or electronic, or on-the-job training that teaches them to perform their duties in a way that ensures compliance with [~~this part~~]Rule R315-262. The large quantity generator shall ensure that this program includes[~~-all~~] the elements described in the document required under Subsection R315-262-17(a)(7)(iv)(C).

(B) This program shall be directed by a person trained in hazardous waste management procedures, and shall include instruction [~~which~~]that teaches facility personnel hazardous waste management procedures, including contingency plan implementation, relevant to their employment positions[~~-in which they are employed~~].

(C) At a minimum, the training program shall be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems, including [~~where~~]if applicable:

(I) [~~P~~]procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment;

(II) [~~K~~]key parameters for automatic waste feed cut[~~-~~]off systems;

(III) [~~C~~]communications or alarm systems;

(IV) [~~R~~]response to fires or explosions;

(V) [~~R~~]response to ground-water contamination incidents; and

(VI) [~~S~~]shutdown of operations.

(D) For facility employees that receive emergency response training pursuant to Occupational Safety and Health Administration regulations 29 CFR 1910.120(p)(8) and 1910.120(q), the large quantity generator is not required to provide separate emergency response training pursuant to Section R315-262-17, [~~provided that~~]if the overall facility training meets[~~-all~~] the conditions of exemption in Section R315-262-17.

(ii) Facility personnel shall successfully [~~complete~~]finish the program required in Subsection R315-262-17(a)(7)(i) within six months after the date of their employment or assignment to the facility, or to a new position at the facility, whichever is later. Employees [~~shall~~]may not work in unsupervised positions until they have [~~completed~~]finished the training standards of Subsection R315-262-17(a)(7)(i).

(iii) Facility personnel shall take part in an annual review of the initial training required in Subsection R315-262-17(a)(7)(i).

(iv) The large quantity generator shall maintain the following documents and records at the facility:

(A) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job;

(B) A written job description for each position listed under Subsection R315-262-17(a)(7)(iv)(A). This description may be consistent in its degree of specificity with descriptions for other similar positions in the [~~same~~]company location or bargaining unit, but shall include the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position;

(C) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under Subsection R315-262-17(a)(7)(iv)(A); and

(D) Records that document that the training or job experience, required under Subsections R315-262-17(a)(7)(i), R315-262-17(a)(7)(ii), and R315-262-17(a)(7)(iii), has been given to, and [~~completed~~]finished by, facility personnel.

(v) Training records on current personnel shall be kept until closure of the facility. Training records on former employees shall be kept for at least three years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the [~~same~~]company.

(8) Closure. A large quantity generator accumulating hazardous wastes in containers, tanks, drip pads, and containment buildings, [~~prior to~~]before closing a unit at the facility, or [~~prior to~~]before closing the facility, shall meet the following conditions:

(i) Notification for closure of a waste accumulation unit. A large quantity generator shall perform one of the following when closing a waste accumulation unit:

(A) Place a notice in the operating record within 30 days after closure identifying the location of the unit within the facility; or

(B) Meet the closure performance standards of Subsection R315-262-17(a)(8)(iii) for container, tank, and containment building waste accumulation units or Subsection R315-262-17(a)(8)(iv) for drip pads and notify the [~~Director~~]director following the procedures in Subsection R315-262-17(a)(8)(ii)(B) for the waste accumulation unit. If the waste accumulation unit is subsequently reopened, the generator may remove the notice from the operating record.

(ii) Notification for closure of the facility.

(A) Notify the [~~Director~~]director using EPA form 8700-12 no later than 30 days [~~prior to~~]before closing the facility.

(B) Notify the [~~Director~~]director using EPA form 8700-12 within 90 days after closing the facility that it has complied with the closure performance standards of Subsection R315-262-17(a)(8)(iii) or R315-262-17(a)(8)(iv). If the facility cannot meet the closure performance standards of Subsection R315-262-17(a)(8)(iii) or R315-262-17(a)(8)(iv), notify the [~~Director~~]director using EPA form 8700-12 that it will close as a landfill under Section [~~40 CFR~~]R315-265[~~-~~]-310[~~, which is incorporated by reference in Section R315-265-1~~], in the case of a container, tank or containment building unit[~~(~~]s[~~)~~], or for a facility with drip pads, notify using EPA form 8700-12 that it will close under the standards of [~~40 CFR~~]Subsection R315-265[~~-~~]-445(b)[~~, which is incorporated by reference in Section R315-265-1~~].

(C) A large quantity generator may request additional time to clean close, but it shall notify the [~~Director~~]director using EPA form 8700-12 within 75 days after the date provided in Subsection R315-262-17(a)(8)(ii)(A) to request an extension and provide an explanation as to why the additional time is required.

(iii) Closure performance standards for container, tank systems, and containment building waste accumulation units.

(A) At closure, the generator shall close the waste accumulation unit or facility in a manner that:

(I) [~~M~~]minimizes the need for further maintenance by controlling, minimizing, or eliminating, to the extent necessary to protect human health and the environment, the post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere[~~,~~]; and

(II) [~~R~~]removes or decontaminates[~~ all~~] contaminated equipment, structures and soil and any remaining hazardous waste residues from waste accumulation units including containment system components [~~(~~]such as pads[~~,~~] of liners,[~~ etc.),~~] contaminated soils and subsoils, bases, and structures and equipment contaminated with waste, unless Subsection R315-261-3(d) applies.

(III) Any hazardous waste generated in the process of closing either the generator's facility or unit[~~(~~]s[~~)~~] accumulating hazardous waste shall be managed in accordance with the[~~all~~] applicable standards of Rules R315-262, R315-263, R315-265 and R315-268, including removing any hazardous waste contained in these units within 90 days of generating it and managing these wastes in a hazardous waste permitted treatment, storage and disposal facility or interim status facility.

(IV) If the generator demonstrates that any contaminated soils and wastes cannot be practicably removed or decontaminated as required in Subsection R315-262-17(a)(8)(ii)(A)(II), then the waste accumulation unit is considered to be a landfill and the generator shall close the waste accumulation unit and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills, Section [~~(40 CFR~~]R315-265[~~.~~]-310[~~, which is incorporated by reference in Section R315-265-1)~~]. In addition, for the purposes of closure, post-closure, and financial responsibility, such a waste accumulation unit is then considered to be a landfill, and the generator shall meet [~~all of~~]the requirements for landfills specified in [~~40 CFR~~]Sections R315-265[~~.~~]-110 through R315-265[~~.~~]-121 and R315-265[~~.~~]-140 through R315-265[~~.~~]-148[~~, which are incorporated by reference in Section R315-265-1~~].

(iv) Closure performance standards for drip pad waste accumulation units. At closure, the generator shall comply with the closure requirements of Subsections R315-262-17(a)(8)(ii) and R315-262-17(a)(8)(iii)(A)(I) and R315-262-17(a)(8)(iii)(A)(III), and [~~40 CFR~~]Subsections R315-265[~~.~~]-445(a) and R315-265-445(b)[~~, which are incorporated by reference in Section R315-265-1~~].

(v) The closure requirements of Subsection R315-262-17(a)(8) do not apply to satellite accumulation areas.

(9) Land disposal restrictions. The large quantity generator complies with the[~~all~~] applicable requirements under Rule R315-268.

(b) Accumulation time limit extension. A large quantity generator who accumulates hazardous waste for more than 90 days is subject to the requirements of Rules R315-124, R315-264 through R315-266, R315-268, and R315-270 and the notification requirements of [~~s~~]Section 3010 of RCRA for treatment, storage, and disposal facilities, unless it has been granted an extension to the 90-day period. [~~Such~~]The extension may be granted by the [~~Director~~]director if hazardous wastes shall remain on site for longer than 90 days due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the [~~Director~~]director on a case-by-case basis.

(c) Accumulation of F006. A large quantity generator who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the EPA hazardous waste number F006, may accumulate F006 waste on site for more than 90 days, but not more than 180 days without being subject to Rules R315-124, R315-264 through R315-266 and R315-270, and the notification requirements of [~~s~~]Section 3010 of RCRA for treatment, storage, and disposal facilities, [~~provided that~~]if it complies with[~~ all of~~] the following additional conditions for exemption:

(1) The large quantity generator has implemented pollution prevention practices that reduce the amount of any hazardous substances, pollutants, or contaminants entering F006 or otherwise released to the environment [~~prior to~~]before its recycling;

(2) The F006 waste is legitimately recycled through metals recovery;

(3) No more than 20,000 kilograms of F006 waste is accumulated on site at any one time; and

(4) The F006 waste is managed in accordance with one or a combination of the following:

(i)(A) If the F006 waste is placed in containers, the large quantity generator shall comply with the applicable conditions for exemption in Subsection R315-262-17(a)(1)[~~; and/or~~].

(B) If the F006 is placed in tanks, the large quantity generator shall comply with the applicable conditions for exemption of Subsection R315-262-17(a)(2)[~~; and/or~~].

(C) If the F006 is placed in containment buildings, the large quantity generator shall comply with [~~40 CFR~~]Sections R315-265[~~.~~]-1100 through R315-265[~~.~~]-1102[~~, which are incorporated by reference in Section R315-265-1,~~] and has placed its professional engineer certification that the building complies with the design standards specified in [~~40 CFR~~]Section R315-265[~~.~~]-1101[~~, which is incorporated by reference in Section R315-265-1,~~] in the facility's files [~~prior to~~]before operation of the unit. The large quantity generator shall maintain the following records:

(I) A written description of procedures to ensure that the F006 waste remains in the unit for no more than 180 days, a written description of the waste generation and management practices for the facility showing that they are consistent with the 180-day limit, and documentation that the large quantity generator is complying with the procedures; or

(II) Documentation that the unit is emptied at least once [~~every~~]each 180 days.

(ii) The large quantity generator is exempt from[~~ all~~] the requirements in [~~40 CFR~~]Sections R315-265[~~.~~]-110 through R315-265[~~.~~]-121 and R315-265[~~.~~]-140 through R315-265[~~.~~]-148[~~, which are incorporated by reference in Section R315-265-1,~~] except for those referenced in Subsection R315-262-17(a)(8).

(iii) The date [~~upon which~~]that each period of accumulation begins is clearly marked and shall be clearly visible for inspection on each container;

(iv) While being accumulated on site, each container and tank is labeled or marked clearly with:

(A) [~~T~~]the words "Hazardous Waste"; and

(B) [~~A~~]an indication of the hazards of the contents, examples include[~~, but are not limited to~~]:

(I) the applicable hazardous waste characteristic[~~(~~]s[~~)~~], that is,[~~ i.e.,~~] ignitable, corrosive, reactive, toxic;

(II) hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E, labeling, or subpart F, placarding;

(III) a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or

(IV) a chemical hazard label consistent with the National Fire Protection Association code 704.

(v) The large quantity generator complies with the requirements in Subsections R315-262-17(a)(6) and R315-262-17(a)(7).

(d) F006 transported over 200 miles. A large quantity generator who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the EPA hazardous waste number F006, and who [~~shall~~]must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more for off-site metals recovery, may accumulate F006 waste on site for more than 90 days, but not more than 270 days without being subject to Rules R315-124, R315-264 through R315-266, R315-270, and the notification requirements of [~~s~~]Section 3010 of RCRA for treatment, storage, and disposal facilities, if the large quantity generator complies with [~~all of~~]the conditions for exemption of Subsections R315-262-17(c)(1) through R315-262-17(c)(4).

(e) F006 accumulation time extension. A large quantity generator accumulating F006 in accordance with Subsections R315-262-17(c) and R315-262-17(d) who accumulates F006 waste on site for more than 180 days, or for more than 270 days if the generator [~~shall~~]must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more, or who accumulates more than 20,000 kilograms of F006 waste on site is an operator of a storage facility and is subject to the requirements of Rules R315-124, R315-264, R315-265, and R315-270, and the notification requirements of [~~s~~]Section 3010 of RCRA, for treatment, storage, and disposal facilities, unless the generator has been granted an extension to the 180-day, or 270-day if applicable, period or an exception to the 20,000 kilogram accumulation limit. [~~Such~~]These extensions and exceptions may be granted by the [~~Director~~]director if F006 waste shall remain on site for longer than 180 days, [~~(~~]or 270 days if applicable[~~)~~], or if more than 20,000 kilograms of F006 waste shall remain on site due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days or an exception to the accumulation limit may be granted at the discretion of the [~~Director~~]director on a case-by-case basis.

(f) Consolidation of hazardous waste received from very small quantity generators. Large quantity generators may accumulate on site hazardous waste received from very small quantity generators under control of the [~~same~~]person, as defined in Section R315-260-10, who controls the large quantity generator facility without a storage permit or interim status and without complying with the requirements of Rules R315-124, R315-264 through R315-266, R315-268, and R315-270, and the notification requirements of [~~s~~]Section 3010 of RCRA for treatment, storage, and disposal facilities, [~~provided that~~]if they comply with Subsections R315-262-17(f)(1) through R315-262-17(f)(3)[~~the following conditions~~]. "Control," for the purposes of [~~this~~]Subsection R315-262-17(f), means the power to direct the policies of the generator, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate generator facilities on behalf of a different person [~~shall~~]may not be [~~deemed~~]considered to "control" [~~such~~]the generators.

(1) The large quantity generator notifies the [~~Director~~]director at least [~~thirty (~~]30[~~)~~] days [~~prior to~~]before receiving the first shipment from a very small quantity generator[~~(~~]s[~~)~~] using EPA Form 8700-12; and

(i) Identifies on the form the name[~~(~~]s[~~)~~] and site address[~~(~~]es[~~)~~] for the very small quantity generator[~~(~~]s[~~)~~] as well as the name and business telephone number for a contact person for the very small quantity generator[~~(~~]s[~~)~~]; and

(ii) Submits an updated Site ID form, [~~(~~]EPA Form 8700-12[~~)~~], within 30 days after a change in the name or site address for the very small quantity generator.

(2) The large quantity generator maintains records of shipments for three years from the date the hazardous waste was received from the very small quantity generator. These records shall identify the name, site address, and contact information for the very small quantity generator and include a description of the hazardous waste received, including the quantity and the date the waste was received.

(3) The large quantity generator complies with the independent requirements identified in Subsection R315-262-10(a)(1)(iii) and the conditions for exemption in Subsection R315-262-17(f) for [~~all~~]hazardous wastes received from a very small quantity generator. For purposes of the labeling and marking [~~regulations~~]rules in Subsection R315-262-17(a)(5), the large quantity generator shall label the container or unit with the date accumulation started, that is,[~~i.e.,~~] the date the hazardous waste was received from the very small quantity generator. If the large quantity generator is consolidating incoming hazardous waste from a very small quantity generator with either its own hazardous waste or with hazardous waste from other very small quantity generators, the large quantity generator shall label each container or unit with the earliest date any hazardous waste in the container was accumulated on site.

(g) Rejected load. A large quantity generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy [~~provisions~~]requirements of Section[~~s~~] R315-264-72 or [~~40 CFR ~~]R315-265[~~.~~]-72[~~, which is incorporated by reference in Section R315-265-1,~~] may accumulate the returned waste on site in accordance with Subsections R315-262-17(a) and R315-262-17(b). Upon receipt of the returned shipment, the generator shall:

(1) [~~S~~]sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or

(2) [~~S~~]sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.

R315-262-42. Recordkeeping and Reporting Applicable to Small and Large Quantity Generators -- Exception Reporting.

(a)(1) A [~~generator of 1,000 kilograms or greater of hazardous waste in a calendar month, or greater than 1 kg of acute hazardous waste listed in Section R315-261-31 or Subsection R315-261-33(e) in a calendar month,~~]large quantity generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter shall contact the transporter, [~~and/~~]or the owner or operator of the designated facility, or both, to determine the status of the hazardous waste.

(2) A [~~generator of 1,000 kilograms or greater of hazardous waste in a calendar month, or greater than 1 kg of acute hazardous waste listed in Section R315-261-31 or Subsection R315-261-33(e) in a calendar month,~~]large quantity generator shall submit an Exception Report to the [~~Director~~]director if [~~he~~]the generator has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. The Exception Report shall include:

(i) [~~A~~]a legible copy of the manifest [~~for which~~]that the generator does not have confirmation of delivery; and

(ii) [~~A~~]a cover letter signed by the generator or [~~his~~]the generator's authorized representative explaining the efforts taken to locate the hazardous waste and the results of those efforts.

(b) A small quantity generator [~~of greater than 100 kilograms but less than 1000 kilograms~~]of hazardous waste [~~in a calendar month~~]who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 60 days of the date the waste was accepted by the initial transporter shall submit a legible copy of the manifest, with [~~some~~]an indication that the generator has not received confirmation of delivery, to the [~~Director~~]director.

[~~Note:~~](1) The submission to the [~~Director~~]director need only be a handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the return copy was not received.

(c) For rejected shipments of hazardous waste or container residues contained in non-empty containers that are forwarded to an alternate facility by a designated facility using a new manifest, following the procedures of Subsections R315-264-72(e)(1) through R315-264-72(e)(6) or [~~40 CFR~~]R315-265[~~,~~]-72(e)(1) through R315-265-72(e)(6)[~~, which are adopted by reference~~]; the generator shall comply with the requirements of Subsection[~~s~~] R315-262-42(a) or R315-262-42(b), as applicable, for the shipment forwarding the material from the designated facility to the alternate facility instead of for the shipment from the generator to the designated facility. For purposes of Subsection R315-262-42(a) or R315-262-42(b) for a shipment forwarding [~~such~~]the waste to an alternate facility by a designated facility:

(1) The copy of the manifest received by the generator shall have the handwritten signature of the owner or operator of the alternate facility in place of the signature of the owner or operator of the designated facility[~~,~~]; and

(2) The 35[~~/~~] or 45[~~/~~] or 60-day timeframes begin the date the waste was accepted by the initial transporter forwarding the hazardous waste shipment from the designated facility to the alternate facility.

R315-262-81. Transboundary Movements of Hazardous Waste for Recovery or Disposal -- Definitions.

In addition to the definitions set forth at Section R315-260-10, the following definitions apply to Sections R315-262-80 through R315-262-84:

"Competent authority" means the regulatory authority or authorities of concerned countries having jurisdiction over transboundary movements of wastes.

"Countries concerned" means the countries of export or import and any countries of transit.

"Country of export" means any country [~~from which~~]where a transboundary movement of hazardous wastes is planned to be initiated or is initiated.

"Country of import" means any country [~~to which~~]where a transboundary movement of hazardous wastes is planned to be sent or takes place [~~for the purpose of submitting~~]to submit the wastes to recovery or disposal operations therein.

"Country of transit" means any country other than the country of export or country of import [~~across which~~]where a transboundary movement of hazardous wastes is planned to cross or takes place.

"Disposal operations" means activities [~~which~~]that do not lead to the possibility of resource recovery, recycling, reclamation, direct re-use or alternate uses, which include:

D1 Release or Deposit into or onto land, other than by any of operations D2 through D5 or D12.

D2 Land treatment, such as biodegradation of liquids or sludges in soils.

D3 Deep injection, such as injection into wells, salt domes or naturally occurring repositories.

D4 Surface impoundment, such as placing of liquids or sludges into pits, ponds or lagoons.

D5 Specially engineered landfill, such as placement into lined discrete cells [~~which~~]that are capped and isolated from one another and the environment.

D6 Release into a water body other than a sea or ocean, and other than by operation D4.

D7 Release into a sea or ocean, including sea-bed insertion, other than by operation D4.

D8 Biological treatment not specified elsewhere in operations D1 through D12, [~~which~~]that results in final compounds or mixtures [~~which~~]that are discarded by [~~means of~~]any of operations D1 through D12.

D9 Physical or chemical treatment not specified elsewhere in operations D1 through D12, such as evaporation, drying, calcination, neutralization, or precipitation, [~~which~~]that results in final compounds or mixtures [~~which~~]that are discarded by[~~means of~~] any of operations D1 through D12.

D10 Incineration on land.

D11 Incineration at sea.

D12 Permanent storage.

D13 Interim [~~B~~]blending or mixing, [~~prior to~~]before an operation that bears any of the disposal operations [~~any of operations~~]D1 [~~through~~]to D12.

D14 Interim [~~R~~]repackaging, [~~prior to~~]before an operation that bears any of the disposal operations [~~any of operations~~]D1 [~~through~~]to [~~D13~~]D12.

D15 [~~(or DC17 for transboundary movements with Canada only)~~]Interim Storage, [~~prior to any of operations~~]before an operation that bears any of the disposal operations D1 [~~through~~]to D12.

DC1[~~15~~] Release, including the venting of compressed or liquified gases, or treatment, other than by any of operations D1 to D12, [~~(~~]for transboundary movements with Canada only[~~)~~].

DC2[~~16~~] Testing of a new technology to dispose of a hazardous waste, [~~(~~]for transboundary movements with Canada only[~~)~~].

"EPA Acknowledgment of Consent" (AOC) means the letter EPA sends to the exporter documenting the specific terms of the country of import's consent and the countries[~~y(ies)~~] of transit's consents[~~(s)~~]. The AOC meets the definition of an export license in U.S. Census Bureau regulations 15 CFR 30.1.

"Export" means the transportation of hazardous waste from a location under the jurisdiction of the United States to a location under the jurisdiction of another country, or a location not under the jurisdiction of any country, for the purposes of recovery or disposal operations therein.

"Exporter, also known as primary exporter on the [~~RCRA~~]hazardous waste manifest", means the person domiciled in the United States who [~~is required to~~]shall originate the movement document in accordance with Subsection R315-262-83(d) or the manifest for a shipment of hazardous waste in accordance with Sections R315-262-20 through R315-262-27, [~~which~~]that specifies a foreign receiving facility as the facility [~~to which~~]where the hazardous wastes will be sent, or any recognized trader who proposes export of the hazardous wastes for recovery or disposal operations in the country of import.

"Foreign exporter" means the person under the jurisdiction of the country of export who has, or will have [~~at the time~~]when the planned transboundary movement [~~commences~~]begins, possession or other forms of legal control of the hazardous wastes and who proposes shipment of the hazardous wastes to the United States for recovery or disposal operations.

"Foreign importer" means the person to whom possession or other form of legal control of the hazardous waste is assigned [~~at the time~~]when the exported hazardous waste is received in the country of import.

"Foreign receiving facility" means a facility [~~which~~]that, under the importing country's applicable domestic law, is operating or is authorized to operate in the country of import to receive the hazardous wastes and to perform recovery or disposal operations on them.

"Import" means the transportation of hazardous waste from a location under the jurisdiction of another country to a location under the jurisdiction of the United States for the purposes of recovery or disposal operations therein.

"Importer" means the person to whom possession or other form of legal control of the hazardous waste is assigned [~~at the time~~]when the imported hazardous waste is received in the United States.

"OECD area" means any[~~all~~] land or marine areas under the national jurisdiction of any OECD Member country. [~~When~~]If the [~~regulations~~]rules refer to shipments to or from an OECD Member country, this means OECD area.

"OECD" means the Organization for Economic Cooperation and Development.

"OECD Member country" means the countries that are members of the OECD and participate in the Amended 2001 OECD Decision. [~~(~~]EPA provides a list of OECD Member countries at https://www.epa.gov/hwgenerators/international-agreementstransboundary- shipments-waste[~~)~~].

"Receiving facility" means a U.S. facility [~~which~~]that, under RCRA and other applicable domestic laws, is operating or is authorized to operate to receive hazardous wastes and to perform recovery or disposal operations on them.

"Recovery operations" means activities leading to resource recovery, recycling, reclamation, direct re-use or alternative uses, which include:

R1 Use as a fuel, [~~(~~]other than in direct incineration[~~)~~], or other means to generate energy.

R2 Solvent reclamation[~~/~~] or regeneration.

R3 Recycling[~~/~~] or reclamation of organic substances [~~which~~]that are not used as solvents.

R4 Recycling[~~/~~] or reclamation of metals and metal compounds.

R5 Recycling[~~/~~] or reclamation of other inorganic materials.

R6 Regeneration of acids or bases.

R7 Recovery of components used for pollution abatement.

R8 Recovery of components used from catalysts.

R9 Used oil re-refining or other reuses of previously used oil.

R10 Land treatment resulting in benefit to agriculture or ecological improvement.

R11 Use[~~s~~] of residual materials [~~obtained~~]received from any of the recovery operation[~~s~~] codes numbered R1 through R10 or RC1[~~14 (for transboundary shipments with Canada only)~~].

R12 Interim [~~E~~]exchange of wastes before recycling using any of the recovery operation codes numbered[~~for submission to any of the operations numbered~~] R1 through R11 or RC1[~~14 (for transboundary shipments with Canada only)~~].

R13 Interim [~~A~~]accumulation of [~~material intended for any~~]wastes before recycling using any of the operation codes numbered R1 through R11[~~2~~] or RC1[~~14 (for transboundary shipments with Canada only)~~].

RC1[~~14~~] Recovery or regeneration of a substance or use or re-use of a recyclable material, other than by any of operations R1 to R10, [~~(~~]for transboundary [~~shipments~~]movements with Canada only[~~)~~].

RC2[~~15~~] Testing of a new technology to recycle a hazardous recyclable material, [~~(~~]for transboundary [~~shipments~~]movements with Canada only[~~)~~].

RC3[~~16~~] Interim storage [~~prior to~~]before any of operations R1 to R11 or RC1[~~14~~], [~~(~~]for transboundary [~~shipments~~]movements with Canada only[~~)~~].

"Transboundary movement" means any movement of hazardous wastes from an area under the national jurisdiction of one country to an area under the national jurisdiction of another country.

R315-262-82. Transboundary Movements of Hazardous Waste for Recovery or Disposal -- General Conditions.

(a) Scope. The level of control for exports and imports of waste is indicated by assignment of the waste to either a list of wastes subject to the Green control procedures or a list of wastes subject to the Amber control procedures and whether the waste is or is not hazardous waste. The OECD Green and Amber lists are incorporated by reference in Section R315-260-11.

(1) Green list wastes.

(i) Green wastes that are not hazardous wastes are subject to existing controls normally applied to commercial transactions, and are not subject to the requirements of Sections R315-262-80 through R315-262-84.

(ii) Green wastes that are hazardous wastes are subject to the requirements of Sections R315-262-80 through R315-262-84.

(2) Amber list wastes.

(i) Amber wastes that are hazardous wastes are subject to the requirements of Sections R315-262-80 through R315-262-84, even if they are imported to or exported from a country that does not consider the waste to be hazardous or control the transboundary shipment as a hazardous waste import or export.

(A) For exports, the exporter shall comply with Section R315-262-83.

(B) For imports, the recovery or disposal facility and the importer shall comply with Section R315-262-84.

(ii) Amber wastes that are not hazardous wastes, but are considered hazardous by the other country are subject to the Amber control procedures in the country that considers the waste hazardous, and are not subject to the requirements of Sections R315-262-80 through R315-262-84. The[~~All~~] responsibilities of the importer or exporter shift to the foreign importer or foreign exporter in the other country that considers the waste hazardous unless the parties make other arrangements through contracts.

[~~Note to Subsection R315-262-82(a)(2):~~](A) [~~Some~~]Several Amber list wastes are not listed or otherwise identified as hazardous under RCRA, and therefore are not subject to the requirements of Sections R315-262-80 through R315-262-84. Regardless of the status of the waste under RCRA, however, other [~~F~~]federal environmental statutes, for example, the Toxic Substances Control Act, restrict certain waste imports or exports. [~~Such~~] These restrictions continue to apply with regard to Sections R315-262-80 through R315-262-84.

(3) Mixtures of wastes.

(i) A Green waste that is mixed with one or more other Green wastes resulting in a mixture that [~~such that the resulting mixture~~]is not hazardous waste is not subject to the requirements of Sections R315-262-80 through R315-262-84.

[~~Note to Subsection R315-262-82(a)(3)(i):~~](A) The regulated community should note that [~~some~~]several countries may require, by domestic law, that mixtures of different Green wastes be subject to the Amber control procedures.

(ii) A Green waste that is mixed with one or more Amber wastes, in any amount, de minimis or otherwise, or a mixture of two or more Amber wastes, [~~such that the~~]resulting in a waste mixture that is hazardous waste is subject to the requirements of Sections R315-262-80 through R315-262-84.

[~~Note to Subsection R315-262-82(a)(3)(ii):~~](A) The regulated community should note that [~~some~~]several countries may require, by domestic law, that a mixture of a Green waste and more than a de minimis amount of an Amber waste or a mixture of two or more Amber wastes be subject to the Amber control procedures.

(4) Wastes not yet assigned to an OECD waste list are eligible for transboundary movements, as follows:

(i) If [~~such~~]the wastes are hazardous wastes, [~~such~~]the wastes are subject to the requirements of Sections R315-262-80 through R315-262-84.

(ii) If [~~such~~]the wastes are not hazardous wastes, [~~such~~]the wastes are not subject to the requirements of Sections R315-262-80 through R315-262-84.

(b) General conditions applicable to transboundary movements of hazardous waste.

(1) The hazardous waste shall be destined for recovery or disposal operations at a facility that, under applicable domestic law, is operating or is authorized to operate in the country of import;

(2) The transboundary movement shall be in compliance with applicable international transport agreements[~~; and Note to Subsection R315-262-82(b)(2): These international agreements~~] that include[~~, but are not limited to,~~] the Chicago Convention (1944), ADR (1957), ADNR (1970), MARPOL Convention (1973/1978), SOLAS Convention (1974), IMDG Code (1985), COTIF (1985), and RID (1985)[~~.~~]; and

(3) Any transit of hazardous waste through one or more countries shall be conducted in compliance with the[~~all~~] applicable international and national laws and regulations.

(c) Duty to return wastes subject to the Amber control procedures during transit through the United States. [~~When~~]If a transboundary movement of hazardous wastes transiting the United States and subject to the Amber control procedures does not comply with the requirements of the notification and movement documents or otherwise constitutes illegal shipment, and if alternative arrangements cannot be made to recover or dispose of these wastes in an environmentally sound manner, the waste shall be returned to the country of export. The U.S. transporter shall inform EPA at the specified mailing address in Subsection R315-262-82(e) of the need to return the shipment. EPA will then inform the competent authority of the country of export, citing the reason[~~(~~]s[~~)~~] for returning the waste. The U.S. transporter shall [~~complete~~]finish the return within [~~ninety (~~]90[~~)~~] days from the time EPA informs the country of export of the need to return the waste, unless informed in writing by EPA of another timeframe agreed to by the concerned countries.

(d) Laboratory analysis exemption. Export or import of a hazardous waste sample is exempt from the requirements of Sections R315-262-80 through R315-262-84 if the sample is destined for laboratory analysis to assess its physical or chemical characteristics, or to determine its suitability for recovery or disposal operations, does not exceed 25 [~~twenty-five kilograms (25~~]kg[~~)~~] in quantity, is appropriately packaged and labeled, and complies with the conditions of Subsection R315-261-4(d) or R315-261-4(e).

(e) EPA Address for submittals by postal mail or hand delivery. Submittals required in Sections R315-262-80 through R315-262-84 to be made by postal mail or hand delivery should be sent to the following addresses:

(1) For postal mail delivery, the Office of Land and Emergency Management, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, International Branch, Mail Code 2255A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460.[~~the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460.~~]

(2) For hand[~~-~~] delivery, the Office of [~~Enforcement and Compliance Assurance, Office of Federal Activities,~~]Land and Emergency Management, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, International [~~Compliance Assurance Division~~]Branch, Mail Code 2255T, Environmental Protection Agency, William Jefferson Clinton [~~South Bldg.~~]West Building, Room [~~6144, 12th St. and Pennsylvania~~]1301 Constitution Ave., NW., Washington, DC 20004.

R315-262-83. Transboundary Movements of Hazardous Waste for Recovery or Disposal -- Exports of Hazardous Waste.

(a) General export requirements. Except as provided in Subsections R315-262-83(a)(5) and R315-262-83(a)(6), exporters that have received an AOC from EPA before December 31, 2016 are subject to that approval and the requirements listed in the AOC that existed at the time of that approval until [~~such~~]the time that the approval period expires. Any [~~All~~]other exports of hazardous waste are prohibited unless:

(1) [~~T~~]the exporter complies with the contract requirements in Subsection R315-262-83(f);

(2) [~~T~~]the exporter complies with the notification requirements in Subsection R315-262-83(b);

(3) [~~T~~]the exporter receives an AOC from EPA documenting consent from the countries of import and transit, and original country of export if exporting previously imported hazardous waste;

(4) [~~T~~]the exporter ensures compliance with the movement documents requirements in Subsection R315-262-83(d);

(5) [~~T~~]the exporter ensures compliance with the manifest instructions for export shipments in Subsection R315-262-83(c); and

(6) [~~T~~]the exporter or a U.S. authorized agent:

(i) For shipments initiated [~~prior to~~]before the AES filing compliance date, does one of the following:

(A) Submits Electronic Export Information (EEI) for each shipment to the Automated Export System (AES) or its successor system, under the International Trade Data System (ITDS) platform, in accordance with 15 CFR 30.4(b), and includes the following items in the EEI, along with the other information required under 15 CFR 30.6:

(I) EPA license code;

(II) Commodity classification code for each hazardous waste per 15 CFR 30.6(a)(12);

(III) EPA consent number for each hazardous waste;

(IV) Country of ultimate destination code per 15 CFR 30.6(a)(5);

(V) Date of export per 15 CFR 30.6(a)(2);

(VI) [~~RCRA~~]hazardous waste manifest tracking number, if required;

(VII) Quantity of each hazardous waste in shipment and units for reported quantity, if required reporting units established by value for the reported commodity classification number are in units of weight or volume per 15 CFR 30.6(a)(15); or

(VIII) EPA net quantity for each hazardous waste reported in units of kilograms if solid or in units of liters if liquid, if required reporting units established by value for the reported commodity classification number are not in units of weight or volume.

(B) Complies with a paper-based process by:

(I) Attaching paper documentation of consent, for example, a copy of the EPA Acknowledgment of Consent, international movement document, to the manifest, or shipping papers if a manifest is not required, [~~which~~]that shall accompany the hazardous waste shipment. For exports by rail or water, bulk shipment, the primary exporter shall provide the transporter with the paper documentation of consent [~~which~~]that shall accompany the hazardous waste but [~~which~~]need not be attached to the manifest except that for exports by water, bulk shipment, the primary exporter shall attach the paper documentation of consent to the shipping paper.

(II) Providing the transporter with an additional copy of the manifest, and instructing the transporter via mail, email or fax to deliver that copy to the U.S. Customs official at the point the hazardous waste leaves the United States in accordance with Subsection R315-263-20(g)(4)(ii);

(ii) For shipments initiated on or after the AES filing compliance date, submits Electronic Export Information (EEI) for each shipment to the Automated Export System (AES) or its successor system, under the International Trade Data System (ITDS) platform, in accordance with 15 CFR 30.4(b), and includes the following items in the EEI, along with the other information required under 15 CFR 30.6:

(A) EPA license code;

(B) Commodity classification code for each hazardous waste per 15 CFR 30.6(a)(12);

(C) EPA consent number for each hazardous waste;

(D) Country of ultimate destination code per 15 CFR 30.6(a)(5);

(E) Date of export per 15 CFR 30.6(a)(2);

(F) [~~RCRA~~]hazardous waste manifest tracking number, if required;

(G) Quantity of each hazardous waste in shipment and units for reported quantity, if required reporting units established by value for the reported commodity classification number are in units of weight or volume per 15 CFR 30.6(a)(15); or

(H) EPA net quantity for each hazardous waste reported in units of kilograms if solid or in units of liters if liquid, if required reporting units established by value for the reported commodity classification number are not in units of weight or volume.

(b) Notifications.

(1) General notifications. At least [~~sixty (~~]60[~~)~~] days before the first shipment of hazardous waste is expected to leave the United States, the exporter shall provide notification in English to EPA of the proposed transboundary movement. Notifications shall be submitted electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The notification may cover up to one year of shipments of one or more hazardous wastes being sent to [~~the same~~]a recovery or disposal facility, and shall include [~~all of~~]the following information:

(i) Exporter name and EPA identification number, address, telephone, fax numbers, and email address;

(ii) Foreign receiving facility name, address, telephone, fax numbers, email address, technologies [~~employed~~]used, and the applicable recovery or disposal operations as defined in Section R315-262-81;

(iii) Foreign importer name, [~~(~~]if not the owner or operator of the foreign receiving facility[~~)~~], address, telephone, fax numbers, and email address;

(iv) Intended transporter[~~(~~]s[~~)~~], their agent[~~(~~]s[~~)~~], or both; address, telephone, fax, and email address;

(v) "U.S." as the country of export name, "USA01" as the relevant competent authority code, and the intended U.S. port[~~(~~]s[~~)~~] of exit;

(vi) The ISO standard 3166 country name 2-digit code, OECD/Basel competent authority code, and the ports of entry and exit for each country of transit;

(vii) The ISO standard 3166 country name 2-digit code, OECD/Basel competent authority code, and port of entry for the country of import;

(viii) Statement of whether the notification covers a single shipment or multiple shipments;

(ix) Start and End Dates requested for transboundary movements;

(x) Means of transport planned to be used;

(xi) Description[~~(~~]s[~~)~~] of each hazardous waste, including whether each hazardous waste is regulated universal waste under Rule R315-273, spent lead-acid batteries being exported for recovery of lead under Section[~~s~~] R315-266-80, or industrial ethyl alcohol being exported for reclamation under Subsection R315-261-6(a)(3)(i), estimated total quantity of each waste in either metric tons or cubic meters, the applicable RCRA waste code[~~(~~]s[~~)~~] for each hazardous waste, the applicable OECD waste code from the lists incorporated by reference in Section R315-260-11, and the United Nations[~~/~~] or U.S. Department of Transportation (DOT) ID number for each waste;

(xii) Specification of the recovery or disposal operation[~~(~~]s[~~)~~] as defined in Section R315-262-81[~~,~~]; and

(xiii) Certification[~~/~~] or Declaration signed by the exporter that states: "I certify that the above information is complete and correct to the best of my knowledge. I also certify that legally enforceable written contractual obligations have been entered into and that any applicable insurance or other financial guarantee is or shall be in force covering the transboundary movement. Name: Signature: Date:".

(2) Exports to pre-consented recovery facilities in OECD Member countries. If the recovery facility is located in an OECD member country and has been pre-consented by the competent authority of the OECD member country to recover the waste sent by exporters located in other OECD member countries, the notification may cover up to three years of shipments. Notifications proposing export to a pre-consented facility in an OECD member country shall include the[~~all~~] information listed in Subsections R315-262-83(b)(1)(i) through R315-262-83(b)(1)(xiii) and additionally state that the facility is pre-consented. Exporters shall submit the notification to EPA using the allowable methods listed in Subsection R315-262-83(b)(1) at least ten days before the first shipment is expected to leave the United States.

(3) Notifications listing interim recycling operations or interim disposal operations. If the foreign receiving facility listed in Subsection R315-262-83(b)(1)(ii) will engage in any of the interim recovery operations R12 or R13 or interim disposal operations D13 through D15, or in the case of transboundary movements with Canada, any of the interim recovery operations R12, R13, or RC3[~~16~~], or interim disposal operations D13 to D14, or D15[~~C17~~], the notification submitted according to Subsection R315-262-83(b)(1) shall also include the final foreign recovery or disposal facility name, address, telephone, fax numbers, email address, technologies [~~employed~~]used, and which of the applicable recovery or disposal operations R1 through R11 and D1 through D12, or in the case of transboundary movements with Canada, which of the applicable recovery or disposal operations R1 through R11, RC1[~~14~~] to RC2[~~15~~], D1 through D12, and DC1[~~15~~] to DC2[~~16~~] will be [~~employed~~]used at the final foreign recovery or disposal facility. The recovery and disposal operations in Subsection R315-262-83(b) are defined in Section R315-262-81.

(4) Renotifications. [~~When~~]If the exporter wishes to change any of the information specified on the original notification, [~~(~~]including increasing the estimate of the total quantity of hazardous waste specified in the original notification or adding transporters[~~)~~], the exporter shall submit a renotification of the changes to EPA using the allowable methods in Subsection R315-262-83(b)(1). Any shipment using the requested changes cannot take place until the countries of import and transit consent to the changes and the exporter receives an EPA AOC letter documenting the countries' consents to the changes.

(5) [~~For cases where~~]If the proposed country of import and recovery or disposal operations [~~are~~]is not covered under an international agreement [~~to which both~~]between the United States and the country of import[~~ are parties~~], EPA will coordinate with the Department of State to provide the complete notification to country of import and any countries of transit. In any[~~all~~] other case[~~s~~], EPA will provide the notification directly to the country of import and any countries of transit. A notification is complete when EPA receives a notification [~~which~~]that EPA determines satisfies the requirements of Subsections R315-262-83(b)(1)(i) through R315-262-83(b)(1)(xiii).

(6) [~~Where~~]If the countries of import and transit consent to the proposed transboundary movement[~~(~~]s[~~)~~] of the hazardous waste[~~(~~]s[~~)~~], EPA will forward an EPA AOC letter to the exporter documenting the countries' consents. [~~Where~~]If any of the countries of import and transit objects to the proposed transboundary movement[~~(~~]s[~~)~~] of the hazardous waste or withdraws [~~a prior~~]an earlier consent, EPA will notify the exporter.

(7) Export of hazardous wastes for recycling or disposal operations that were originally imported into the United States for recycling or disposal operations in a third country is prohibited unless an exporter in the United States complies with the export requirements in Section R315-262-83, including providing notification to EPA in accordance with Subsection R315-262-83(b)(1). In addition to listing the[~~all~~] required information in Subsections R315-262-83(b)(1)(i) through R315-262-83(b)(1)(xiii), the exporter shall provide the original consent number issued for the initial import of the wastes in the notification, and receive an AOC from EPA documenting the consent of the competent authorities in new country of import, the original country of export, and any transit countries [~~prior to~~]before re-export.

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

(c) [~~RCRA m~~]Manifest instructions for export shipments. The exporter shall comply with the manifest requirements of Sections R315-262-20 through R315-262-23 except that:

(1) In lieu of the name, site address and EPA ID number of the designated permitted facility, the exporter shall enter the name and site address of the foreign receiving facility[~~;~~].

(2) In the International Shipments block, the exporter shall check the export box and enter the U.S. port of exit, city and [~~S~~]state, from the United States.

(3) The exporter shall list the consent number from the AOC for each hazardous waste listed on the manifest, matched to the relevant list number for the hazardous waste from block 9b. If additional space is needed, the exporter should use [~~a~~]Continuation Sheet[~~(~~]s[~~)~~], [~~(~~]EPA Form 8700--22A[~~)~~].

(4) The exporter may [~~obtain~~]get the manifest from any source that is registered with the U.S. EPA as a supplier of manifests, for example, states, waste handlers, or commercial forms printers.

(d) Movement document requirements for export shipments.

(1) [~~All e~~]Exporters shall ensure that a movement document meeting the conditions of Subsection R315-262-83(d)(2) accompanies each transboundary movement of hazardous wastes from the initiation of the shipment until it reaches the foreign receiving facility, including cases [~~in which~~]when the hazardous waste is stored, sorted by the foreign importer [~~prior to~~]before shipment to the foreign receiving facility, or both, except as provided in Subsections R315-262-83(d)(1)(i) and R315-262-83(d)(1)(ii).

(i) For shipments of hazardous waste within the United States solely by water, bulk shipments only, the exporter shall forward the movement document to the last water, bulk shipment, transporter to handle the hazardous waste in the United States if exported by water.

(ii) For rail shipments of hazardous waste within the United States [~~which~~]that start from the company originating the export shipment, the exporter shall forward the movement document to the next non-rail transporter, if any, or the last rail transporter to handle the hazardous waste in the United States if exported by rail.

(2) The movement document shall include the following Subsections R315-262-83(d)(2)(i) through R315-262-83(d)(2)(xv):

(i) The corresponding consent number[~~(~~]s[~~)~~] and hazardous waste number[~~(~~]s[~~)~~] for the listed hazardous waste from the relevant EPA AOC[~~(~~]s[~~)~~];

(ii) The shipment number and the total number of shipments from the EPA AOC;

(iii) Exporter name and EPA identification number, address, telephone, fax numbers, and email address;

(iv) Foreign receiving facility name, address, telephone, fax numbers, email address, technologies [~~employed~~]used, and the applicable recovery or disposal operations as defined in Section R315-262-81;

(v) Foreign importer name, if not the owner or operator of the foreign receiving facility, address, telephone, fax numbers, and email address;

(vi) Description[~~(~~]s[~~)~~] of each hazardous waste, quantity of each hazardous waste in the shipment, applicable RCRA hazardous waste code[~~(~~]s[~~)~~] for each hazardous waste, applicable OECD waste code for each hazardous waste from the lists incorporated by reference in Section R315-260-11, and the United Nations[~~/~~] or U.S. Department of Transportation (DOT) ID number for each hazardous waste;

(vii) Date movement [~~commenced~~]began;

(viii) Name, if not exporter, address, telephone, fax numbers, and email of company originating the shipment;

(ix) Company name, EPA ID number, address, telephone, fax, and email address of each[~~all~~] transporter[~~s~~];

(x) Identification, for example, [~~(~~]license, registered name or registration number,[~~)~~] of means of transport, including types of packaging;

(xi) Any special precautions to be taken by transporter[~~(~~]s[~~)~~];

(xii) Certification[~~/~~] or declaration signed and dated by the exporter that the information in the movement document is complete and correct;

(xiii) Appropriate signatures for each custody transfer, for example, transporter, importer, and owner or operator of the foreign receiving facility;

(xiv) Each U.S. person that has physical custody of the hazardous waste from the time the movement [~~commences~~]begins until it arrives at the foreign receiving facility shall sign the movement document, for example, transporter, foreign importer, and owner or operator of the foreign receiving facility; and

(xv) As part of the contract requirements per Subsection R315-262-83(f), the exporter shall require that the foreign receiving facility send a copy of the signed movement document to confirm receipt within three working days of shipment delivery to the exporter, to the competent authorities of the countries of import and transit, and for shipments occurring on or after the electronic import-export reporting compliance date, the exporter shall additionally require that the foreign receiving facility send a copy to EPA at the same time using the allowable methods listed in Subsection R315-262-83(b)(1).

(e) Duty to return or re-export hazardous wastes. [~~When~~]If a transboundary movement of hazardous wastes cannot be [~~completed~~]finished in accordance with the terms of the contract or the consent[~~(~~]s[~~)~~] and alternative arrangements cannot be made to recover or dispose of the waste in an environmentally sound manner in the country of import, the exporter shall ensure that the hazardous waste is returned to the United States or re-exported to a third country. If the waste shall be returned, the exporter shall provide for the return of the hazardous waste shipment within 90[~~ninety~~] days from the time the country of import informs EPA of the need to return the waste or [~~such~~]another period[~~ of time~~] as the concerned countries agree. In each[~~all~~] case[~~s~~], the exporter shall submit an exception report to EPA in accordance with Subsection R315-262-83(h).

(f) Export contract requirements.

(1) Exports of hazardous waste are prohibited unless they occur under the terms of a valid written contract, chain of contracts, or equivalent arrangements, [~~(when~~]if the movement occurs between parties controlled by the same corporate or legal entity[~~)~~]. [~~Such~~]The contracts or equivalent arrangements shall be executed by the exporter, foreign importer, [~~(~~]if different from the foreign receiving facility[~~)~~], and the owner or operator of the foreign receiving facility, and shall specify responsibilities for each. Contracts or equivalent arrangements are valid for the purposes of Section R315-262-83 only if persons assuming obligations under the contracts or equivalent arrangements have appropriate legal status to conduct the operations specified in the contract or equivalent arrangements.

(2) Contracts or equivalent arrangements shall specify the name and EPA ID number, [~~where~~]if available, of Subsections R315-262-83(f)(2)(i) through R315-262-83(f)(2)(iv):

(i) The company from where each export shipment of hazardous waste is initiated;

(ii) Each person who will have physical custody of the hazardous wastes;

(iii) Each person who will have legal control of the hazardous wastes; and

(iv) The foreign receiving facility.

(3) Contracts or equivalent arrangements shall specify [~~which~~]party to the contract that will assume responsibility for alternate management of the hazardous wastes if their disposition cannot be carried out as described in the notification of intent to export. In [~~such~~]these cases, contracts shall specify that:

(i) [~~T~~]the transporter or foreign receiving facility having actual possession or physical control over the hazardous wastes will immediately inform the exporter, EPA, and either the competent authority of the country of transit or the competent authority of the country of import of the need to make alternate management arrangements; and

(ii) [~~T~~]the person specified in the contract will assume responsibility for the adequate management of the hazardous wastes in compliance with applicable laws and regulations including, if necessary, arranging the return of hazardous wastes and, as the case may be, shall provide the notification for re-export to the competent authority in the country of import and include the equivalent of the information required in Subsection R315-262-83(b)(1), the original consent number issued for the initial export of the hazardous wastes in the notification, and [~~obtain~~]get consent from EPA and the competent authorities in the new country of import and any transit countries [~~prior to~~]before re-export.

(4) Contracts shall specify that the foreign receiving facility send a copy of the signed movement document to confirm receipt within three working days of shipment delivery to the exporter and to the competent authorities of the countries of import and transit. For contracts that will be in effect on or after the electronic import-export reporting compliance date, the contracts shall additionally specify that the foreign receiving facility send a copy to EPA at the same time using the allowable methods listed in Subsection R315-262-83(b)(1) on or after that date.

(5) Contracts shall specify that the foreign receiving facility shall send a copy of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than 30[~~thirty~~] days after completing recovery or disposal on the waste in the shipment and no later than one calendar year following receipt of the waste, to the exporter and to the competent authority of the country of import. For contracts that will be in effect on or after the electronic import-export reporting compliance date, the contracts shall additionally specify that the foreign receiving facility send a copy to EPA at the same time using the allowable methods listed in Subsection R315-262-83(b)(1) on or after that date.

(6) Contracts shall specify that the foreign importer or the foreign receiving facility that performed interim recycling operations R12, R13, or RC3[~~16~~], or interim disposal operations D13 through D15[~~, or DC17~~], [~~(~~]recovery and disposal operations defined in Section R315-262-81[~~)~~], as appropriate, will:

(i) [~~P~~]provide the notification required in Subsection R315-262-83(f)(3)(ii) [~~prior to~~]before any re-export of the hazardous wastes to a final foreign recovery or disposal facility in a third country; and

(ii) [~~P~~]promptly send copies of the confirmation of recovery or disposal that it receives from the final foreign recovery or disposal facility within one year of shipment delivery to the final foreign recovery or disposal facility that performed one of recovery operations R1 through R11, or RC1[~~16~~], or one of disposal operations D1 through D12, DC1[~~15~~] or DC2[~~16~~] to the competent authority of the country of import. For contracts that will be in effect on or after the electronic import-export reporting compliance date, the contracts shall additionally specify that the foreign facility send copies to EPA at the same time using the allowable method listed in Subsection R315-262-83(b)(1) on or after that date.

(7) Contracts or equivalent arrangements shall include provisions for financial guarantees, if required by the competent authorities of the country of import and any countries of transit, in accordance with applicable national or international law requirements.

[~~Note 1 to Subsection R315-262-83(f)(7):~~](i) Financial guarantees so required are intended to provide for alternate recycling, disposal or other means of sound management of the wastes [~~in cases where~~]if arrangements for the shipment and the recovery operations cannot be carried out as foreseen. The United States does not require [~~such~~]these financial guarantees at this time; however, [~~some~~]several OECD Member countries and other foreign countries do. It is the responsibility of the exporter to ascertain and comply with [~~such~~]the requirements[~~; in some cases,~~] and persons or facilities located in those OECD Member countries or other foreign countries may refuse to enter into the necessary contracts absent specific references or certifications to financial guarantees.

(8) Contracts or equivalent arrangements shall contain provisions requiring each contracting party to comply with the[~~all~~] applicable requirements of Sections R315-262-80 through R315-262-84.

(9) Upon request by EPA, U.S. exporters, importers, or recovery facilities shall submit to EPA copies of contracts, chain of contracts, or equivalent arrangements, [~~when~~]if the movement occurs between parties controlled by the same corporate or legal entity.

(g) Annual reports. The exporter shall file an annual report with EPA no later than March 1 of each year summarizing the types, quantities, frequency, and ultimate destination of any[~~all such~~] hazardous waste exported during the previous calendar year. [~~Prior to~~]Before one year after the AES filing compliance date, the exporter shall mail or hand-deliver annual reports to EPA using one of the addresses specified in Subsection R315-262-82(e), or submit to EPA using the allowable methods specified in Subsection R315-262-83(b)(1) if the exporter has electronically filed EPA information in AES, or its successor system, per Subsection R315-262-83(a)(6)(i)(A) for each[~~all~~] shipment[~~s~~] made the previous calendar year. Subsequently, the exporter shall submit annual reports to EPA using the allowable methods specified in Subsection R315-262-83(b)(1). The annual report shall include each[~~all~~] of the following Subsections R315-262-83(g)(1) through R315-262-83(g)(6) specified as follows:

(1) The EPA identification number, name, and mailing and site address of the exporter filing the report;

(2) The calendar year covered by the report;

(3) The name and site address of each foreign receiving facility;

(4) By foreign receiving facility, for each hazardous waste exported:

(i) A description of the hazardous waste;

(ii) The applicable EPA hazardous waste codes[~~(s)~~], from Sections R315-261-20 through R315-261-24 and R315-261-30 through R315-261-35, for each waste;

(iii) The applicable waste code from the appropriate OECD waste list incorporated by reference in Section R315-260-11;

(iv) The applicable DOT ID number;

(v) The name and U.S. EPA ID number, [~~where~~]if applicable, for each transporter used over the calendar year covered by the report; and

(vi) The consent numbers[~~(s)~~] [~~under which~~]the hazardous waste was shipped under, and for each consent number, the total amount of the hazardous waste and the number of shipments exported during the calendar year covered by the report;

(5) In even numbered years, for each hazardous waste exported, except for hazardous waste produced by exporters of greater than 100kg but less than 1,000kg in a calendar month, and except for hazardous waste [~~for which~~]that the information was already provided pursuant to Section R315-262-41:

(i) A description of the efforts undertaken during the year to reduce the volume and toxicity of the waste generated; and

(ii) A description of the changes in volume and toxicity of the waste actually achieved during the year in comparison to previous years to the extent [~~such~~]this information is available for years [~~prior to~~]earlier than 1984; and

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

(h) Exception reports.

(1) The exporter shall file an exception report in lieu of the requirements of Section R315-262-42, [~~(~~]if applicable[~~)~~], with EPA if any of the following occurs:

(i) The exporter has not received a copy of the [~~RCRA~~]hazardous waste manifest, if applicable, signed by the transporter identifying the point of departure of the hazardous waste from the United States, within [~~forty-five (~~]45[~~)~~] days from the date it was accepted by the initial transporter, in [~~which~~]this case the exporter shall file the exception report within the next [~~thirty (~~]30[~~)~~] days;

(ii) The exporter has not received a written confirmation of receipt from the foreign receiving facility in accordance with Subsection R315-262-83(d) within [~~ninety (~~]90[~~)~~] days from the date the waste was accepted by the initial transporter in [~~which~~]this case the exporter shall file the exception report within the next [~~thirty (~~]30[~~)~~] days; or

(iii) The foreign receiving facility notifies the exporter, or the country of import notifies EPA, of the need to return the shipment to the U.S. or arrange alternate management, in [~~which~~]this case the exporter shall file the exception report within [~~thirty (~~]30[~~)~~] days of notification, or one[~~ (1)~~] day [~~prior to~~]before the date the return shipment [~~commences~~]begins, whichever is sooner.

(2) [~~Prior to~~]Before the electronic import-export reporting compliance date, exception reports shall be mailed or hand delivered to EPA using the addresses listed in Subsection R315-262-82(e). Subsequently, exception reports shall be submitted to EPA using the allowable methods listed in Subsection R315-262-83(b)(1).

(i) Recordkeeping.

(1) The exporter shall keep the following records as described in Subsections R315-262-83(i)(1)(i) through R315-262-83(i)(1)(v) and provide them to EPA or Utah personnel upon request:

(i) A copy of each notification of intent to export and each EPA AOC for a period of at least three[~~ (3)~~] years from the date the hazardous waste was accepted by the initial transporter;

(ii) A copy of each annual report for a period of at least three[~~ (3)~~] years from the due date of the report;

(iii) A copy of any exception reports and a copy of each confirmation of receipt, for example, movement document, sent by the foreign receiving facility to the exporter for at least three[~~ (3)~~] years from the date the hazardous waste was accepted by the initial transporter; and

(iv) A copy of each confirmation of recovery or disposal sent by the foreign receiving facility to the exporter for at least three[~~ (3)~~] years from the date that the foreign receiving facility [~~completed~~]finished interim or final processing of the hazardous waste shipment.

(v) A copy of each contract or equivalent arrangement established per Subsection R315-262-83(f) for at least three[~~ (3)~~] years from the expiration date of the contract or equivalent arrangement.

(2) Exporters may satisfy these recordkeeping requirements by [~~retaining~~]keeping electronically submitted documents in the exporter's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, [~~provided that~~]if copies are readily available for viewing and production if requested by any EPA or Utah inspector. No exporter may be held liable for the inability to produce [~~such~~]the documents for inspection under Section R315-262-83 if the exporter can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system that is not the responsibility of[~~for which~~] the exporter[~~ bears no responsibility~~].

(3) The periods of retention referred to in Section R315-262-83 are extended automatically during [~~the course of~~]any unresolved enforcement action regarding the regulated activity or as requested by the Administrator.

R315-262-84. Transboundary Movements of Hazardous Waste for Recovery or Disposal -- Imports of Hazardous Waste.

(a) General import requirements.

(1) With the exception of Subsection R315-262-84(a)(5), importers of shipments covered under a consent from EPA to the country of export issued before December 31, 2016 are subject to that approval and the requirements that existed at the time of that approval until [~~such~~]the time that the approval period expires. Otherwise, any other person who imports hazardous waste from a foreign country into the United States shall comply with the requirements of Rule R315-262 and the special requirements of Sections R315-262-80 through R315-262-84.

(2) [~~In cases where~~]If the country of export does not require the foreign exporter to submit a notification and [~~obtain~~]get consent to the export [~~prior to~~]before shipment, the importer shall submit a notification to EPA in accordance with Subsection R315-262-84(b).

(3) The importer shall comply with the contract requirements in Subsection R315-262-84(f).

(4) The importer shall ensure compliance with the movement documents requirements in Subsection R315-262-84(d)[~~; and~~].

(5) The importer shall ensure compliance with the manifest instructions for import shipments in Subsection R315-262-84(c).

(b) Notifications. [~~In cases where~~]If the competent authority of the country of export does not regulate the waste as hazardous waste and, thus, does not require the foreign exporter to submit to it a notification proposing export and [~~obtain~~]get consent from EPA and the competent authorities for the countries of transit, but EPA does regulate the waste as hazardous waste:

(1) The importer [~~is required to~~]shall provide notification in English to EPA of the proposed transboundary movement of hazardous waste at least [~~sixty (~~]60[~~)~~] days before the first shipment is expected to depart the country of export. Notifications submitted [~~prior to~~]before the electronic import-export reporting compliance date shall be mailed or hand delivered to EPA at the addresses specified in Subsection R315-262-82(e). Notifications submitted on or after the electronic import-export reporting compliance date shall be submitted electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The notification may cover up to one year of shipments of one or more hazardous wastes being sent from the same foreign exporter, and shall include [~~all of~~]the following information:

(i) Foreign exporter name, address, telephone, fax numbers, and email address;

(ii) Receiving facility name, EPA ID number, address, telephone, fax numbers, email address, technologies [~~employed~~]used, and the applicable recovery or disposal operations as defined in Section R315-262-81;

(iii) Importer name, [~~(~~]if not the owner or operator of the receiving facility[~~)~~], EPA ID number, address, telephone, fax numbers, and email address;

(iv) Intended transporters[~~(s)~~], their agents[~~(s)~~], or both; address, telephone, fax, and email address;

(v) "U.S." as the country of import, "USA01" as the relevant competent authority code, and the intended U.S. ports[~~(s)~~] of entry;

(vi) The ISO standard 3166 country name 2-digit code, OECD/Basel competent authority code, and the ports of entry and exit for each country of transit;

(vii) The ISO standard 3166 country name 2-digit code, OECD/Basel competent authority code, and port of exit for the country of export;

(viii) Statement of whether the notification covers a single shipment or multiple shipments;

(ix) Start and End Dates requested for transboundary movements;

(x) Means of transport planned to be used;

(xi) Descriptions[~~(s)~~] of each hazardous waste, including whether each hazardous waste is regulated universal waste under Rule R315-273, spent lead-acid batteries being exported for recovery of lead under Section R315-266-80, or industrial ethyl alcohol being exported for reclamation under Subsection R315-261-6(a)(3)(i), estimated total quantity of each hazardous waste, the applicable RCRA hazardous waste codes[~~(s)~~] for each hazardous waste, the applicable OECD waste code from the lists incorporated by reference in Section R315-260-11, and the United Nations[~~/~~] or U.S. Department of Transportation (DOT) ID number for each hazardous waste;

(xii) Specification of the recovery or disposal operations[~~(s)~~] as defined in Section R315-262-81; and

(xiii) Certification[~~/~~] or Declaration signed by the importer that states: "I certify that the above information is complete and correct to the best of my knowledge. I also certify that legally enforceable written contractual obligations have been entered into and that any applicable insurance or other financial guarantee is or shall be in force covering the transboundary movement. Name: Signature: Date:".

[~~Note to Subsection R315-262-84(b)(1)(xiii):~~](A) The United States does not currently require financial assurance for these waste shipments.

(2) Notifications listing interim recycling operations or interim disposal operations. If the receiving facility listed in Subsection R315-262-84(b)(1)(ii) will engage in any of the interim recovery operations R12, [~~or~~]R13, or RC3 or interim disposal operations D13 through D15, the notification submitted according to Subsection R315-262-84(b)(1) shall also include the final recovery or disposal facility name, address, telephone, fax numbers, email address, technologies [~~employed~~]used, and [~~which of~~]the applicable recovery or disposal operations R1 through R11, RC1, and D1 through D12, that will be [~~employed~~]used at the final recovery or disposal facility. The recovery and disposal operations in Subsection R315-262-84(b)(2) are defined in Section R315-262-81.

(3) Renotifications. [~~When~~]If the foreign exporter wishes to change any of the conditions specified on the original notification, including increasing the estimate of the total quantity of hazardous waste specified in the original notification or adding transporters, the importer shall submit a renotification of the changes to EPA using the allowable methods in Subsection R315-262-84(b)(1). Any shipment using the requested changes cannot take place until EPA and the countries of transit consent to the changes and the importer receives an EPA AOC letter documenting the consents to the changes.

(4) A notification is complete when EPA determines the notification satisfies the requirements of Subsections R315-262-84(b)(1)(i) through R315-262-84(b)(1)(xiii).

(5) [~~Where~~]If EPA and the countries of transit consent to the proposed transboundary movements[~~(s)~~] of the hazardous wastes[~~(s)~~], EPA will forward an EPA AOC letter to the importer documenting the countries' consents and EPA's consent. [~~Where~~]If any of the countries of transit or EPA objects to the proposed transboundary movements[~~(s)~~] of the hazardous waste or withdraws [~~a prior~~]an earlier consent, EPA will notify the importer.

(6) Export of hazardous wastes originally imported into the United States. Export of hazardous wastes that were originally imported into the United States for recycling or disposal operations is prohibited unless an exporter in the United States complies with the export requirements in Subsection R315-262-83(b)(7).

(c) [~~RCRA~~]Manifest instructions for import shipments.

(1) When importing hazardous waste, the importer shall meet [~~all~~]the requirements of Section R315-262-20 for the manifest except that:

(i) In place of the generator's name, address and EPA identification number, the name and address of the foreign generator and the importer's name, address and EPA identification number shall be used.

(ii) In place of the generator's signature on the certification statement, the importer or [~~his~~]the importer's agent shall sign and date the certification and [~~obtain~~]get the signature of the initial transporter.

(2) The importer may [~~obtain~~]get the manifest form from any source that is registered with the EPA as a supplier of manifests, for example, states, waste handlers, or commercial forms printers.

(3) In the International Shipments block, the importer shall check the import box and enter the point of entry, city and [~~S~~]state, into the United States.

(4) The importer shall provide the transporter with an additional copy of the manifest to be submitted by the receiving facility to U.S. EPA in accordance with Subsection R315-264-71(a)(3) and Subsection R315-265-71(a)(3).

(5) In lieu of the requirements of Subsection R315-262-20(d), [~~where~~]if a shipment cannot be delivered for any reason to the receiving facility, the importer shall instruct the transporter in writing via fax, email or mail to:

(i) [~~R~~]return the hazardous waste to the foreign exporter or designate another facility within the United States; and

(ii) [~~R~~]revise the manifest in accordance with the importer's instructions.

(d) Movement document requirements for import shipments.

(1) The importer shall ensure that a movement document meeting the conditions of Subsection R315-262-84(d)(2) accompanies each transboundary movement of hazardous wastes from the initiation of the shipment in the country of export until it reaches the receiving facility, including cases [~~in which~~]where the hazardous waste is stored, sorted by the importer [~~prior to~~]before shipment to the receiving facility, or both, except as provided in Subsections R315-262-84(d)(1)(i) and R315-262-84(d)(1)(ii).

(i) For shipments of hazardous waste within the United States by water, bulk shipments only, the importer shall forward the movement document to the last water, bulk shipment, transporter to handle the hazardous waste in the United States if imported by water.

(ii) For rail shipments of hazardous waste within the United States [~~which~~]that start from the company originating the export shipment, the importer shall forward the movement document to the next non-rail transporter, if any, or the last rail transporter to handle the hazardous waste in the United States if imported by rail.

(2) The movement document shall include the following Subsections R315-262-84(d)(2)(i) through R315-262-84(d)(2)(xv):

(i) The corresponding AOC number[~~(s)~~] and waste number[~~(s)~~] for the listed waste;

(ii) The shipment number and the total number of shipments under the AOC number;

(iii) Foreign exporter name, address, telephone, fax numbers, and email address;

(iv) Receiving facility name, EPA ID number, address, telephone, fax numbers, email address, technologies [~~employed~~]used, and the applicable recovery or disposal operations as defined in Section R315-262-81;

(v) Importer name, if not the owner or operator of the receiving facility, EPA ID number, address, telephone, fax numbers, and email address;

(vi) Description[~~(s)~~] of each hazardous waste, quantity of each hazardous waste in the shipment, applicable RCRA hazardous waste code[~~(s)~~] for each hazardous waste, the applicable OECD waste code for each hazardous waste from the lists incorporated by reference in Section R315-260-11, and the United Nations[~~/~~] or U.S. Department of Transportation (DOT) ID number for each hazardous waste;

(vii) Date movement [~~commenced~~]began;

(viii) Name, if not the foreign exporter, address, telephone, fax numbers, and email of the foreign company originating the shipment;

(ix) Company name, EPA ID number, address, telephone, fax, and email address of each[~~all~~] transporter[~~s~~];

(x) Identification, license, registered name or registration number, of means of transport, including types of packaging;

(xi) Any special precautions to be taken by transporters[~~(s)~~];

(xii) Certification[~~/~~] or declaration signed and dated by the foreign exporter that the information in the movement document is complete and correct;

(xiii) Appropriate signatures for each custody transfer, for example, transporter, importer, and owner or operator of the receiving facility;

(xiv) Each person that has physical custody of the waste from the time the movement [~~commences~~]begins until it arrives at the receiving facility shall sign the movement document, for example, transporter, importer, and owner or operator of the receiving facility; and

(xv) The receiving facility shall send a copy of the signed movement document to confirm receipt within three working days of shipment delivery to the foreign exporter, to the competent authorities of the countries of export and transit, and for shipments received on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system.

(e) Duty to return or export hazardous wastes. [~~When~~]If a transboundary movement of hazardous wastes cannot be [~~completed~~]finished in accordance with the terms of the contract or the consents[~~(s)~~], [~~the provisions of~~]Subsection R315-262-84(f)(4) appl[~~y~~]ies. If alternative arrangements cannot be made to recover the hazardous waste in an environmentally sound manner in the United States, the hazardous waste shall be returned to the country of export or exported to a third country. [~~The provisions of~~]Subsection R315-262-84(b)(6) appl[~~y~~]ies to any hazardous waste shipments to be exported to a third country. If the return shipment will cross any transit country, the return shipment may only occur after EPA provides notification to and [~~obtains~~]gets consent from the competent authority of the country of transit, and provides a copy of that consent to the importer.

(f) Import contract requirements.

(1) Imports of hazardous waste shall occur under the terms of a valid written contract, chain of contracts, or equivalent arrangements, [~~when~~]if the movement occurs between parties controlled by the same corporate or legal entity. [~~Such~~]These contracts or equivalent arrangements shall be executed by the foreign exporter, importer, and the owner or operator of the receiving facility, and shall specify responsibilities for each. Contracts or equivalent arrangements are valid for the purposes of Section R315-262-84 only if persons assuming obligations under the contracts or equivalent arrangements have appropriate legal status to conduct the operations specified in the contract or equivalent arrangements.

(2) Contracts or equivalent arrangements shall specify the name and EPA ID number, [~~where~~]if available, of Subsections R315-262-84(f)(2)(i) through R315-262-84(f)(2)(iv):

(i) The foreign company from where each import shipment of hazardous waste is initiated;

(ii) Each person who will have physical custody of the hazardous wastes;

(iii) Each person who will have legal control of the hazardous wastes; and

(iv) The receiving facility.

(3) Contracts or equivalent arrangements shall specify the use of a movement document in accordance with Subsection R315-262-84(d).

(4) Contracts or equivalent arrangements shall specify [~~which~~]the party to the contract that will assume responsibility for alternate management of the hazardous wastes if their disposition cannot be carried out as described in the notification of intent to export submitted by either the foreign exporter or the importer. In [~~such~~]these cases, contracts shall specify that:

(i) [~~T~~]the transporter or receiving facility having actual possession or physical control over the hazardous wastes will immediately inform the foreign exporter and importer, and the competent authority where the shipment is located of the need to arrange alternate management or return; and

(ii) [~~T~~]the person specified in the contract will assume responsibility for the adequate management of the hazardous wastes in compliance with applicable laws and regulations including, if necessary, arranging the return of the hazardous wastes and, as the case may be, shall provide the notification for re-export required in Subsection R315-262-83(b)(7).

(5) Contracts shall specify that the importer or the receiving facility that performed interim recycling operations R12, R13, or RC3[~~16~~], or interim disposal operations D13 through D15[~~or DC15 through DC17~~], as appropriate, will provide the notification required in Subsection R315-262-83(b)(7) [~~prior to~~]before the re-export of hazardous wastes. The recovery and disposal operations in Subsection R315-262-84(f)[~~(e)~~](5) are defined in Section R315-262-81.

(6) Contracts or equivalent arrangements shall include provisions for financial guarantees, if required by the competent authorities of any countries concerned, in accordance with applicable national or international law requirements.

[~~Note to Subsection R315-262-84(f)(6):~~](i) Financial guarantees so required are intended to provide for alternate recycling, disposal or other means of sound management of the wastes [~~in cases where~~]if arrangements for the shipment and the recovery operations cannot be carried out as foreseen. The United States does not require [~~such~~]these financial guarantees at this time; however, [~~some~~]several OECD Member countries or other foreign countries do. It is the responsibility of the importer to ascertain and comply with [~~such~~]the requirements[~~; in some cases,~~] and persons or facilities located in those countries may refuse to enter into the necessary contracts absent specific references or certifications to financial guarantees.

(7) Contracts or equivalent arrangements shall contain provisions requiring each contracting party to comply with the[~~all~~] applicable requirements of Sections R315-262-80 through R315-262-84.

(8) Upon request by EPA, importers or disposal or recovery facilities shall submit to EPA copies of contracts, chain of contracts, or equivalent arrangements, [~~when~~]if the movement occurs between parties controlled by the same corporate or legal entity.

(g) Confirmation of recovery or disposal. The receiving facility shall do the following:

(1) Send copies of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than 30[~~thirty~~] days after completing recovery or disposal on the waste in the shipment and no later than one calendar year following receipt of the waste, to the foreign exporter, to the competent authority of the country of export, and for shipments recycled or disposed of on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system.

(2) If the receiving facility performed any of recovery operations R12, R13, or RC3[~~16~~], or disposal operations D13 through D15[~~, or DC17~~], the receiving facility shall promptly send copies of the confirmation of recovery or disposal that it receives from the final recovery or disposal facility within one year of shipment delivery to the final recovery or disposal facility that performed one of recovery operations R1 through R11, or RC1[~~14~~] to RC2[~~15~~], or one of disposal operations D1 through D12, or DC1[~~15~~] to DC2[~~16~~], to the competent authority of the country of export, and for confirmations received on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The recovery and disposal operations in Subsection R315-262-84(g)(2) are defined in Section R315-262-81.

(h) Recordkeeping.

(1) The importer shall keep the following records and provide them to EPA or authorized state personnel upon request:

(i) A copy of each notification that the importer sends to EPA under Subsection R315-262-84(b)(1) and each EPA AOC it receives in response for a period of at least three[~~-(3)~~] years from the date the hazardous waste was accepted by the initial foreign transporter; and

(ii) A copy of each contract or equivalent arrangement established per Subsection R315-262-84(f) for at least three[~~-(3)~~] years from the expiration date of the contract or equivalent arrangement.

(2) The receiving facility shall keep the following records:

(i) A copy of each confirmation of receipt, for example, movement document, that the receiving facility sends to the foreign exporter for at least three[~~-(3)~~] years from the date it received the hazardous waste;

(ii) A copy of each confirmation of recovery or disposal that the receiving facility sends to the foreign exporter for at least three[~~-(3)~~] years from the date that it [~~completed~~]finished processing the waste shipment;

(iii) For the receiving facility that performed any of recovery operations R12, R13, or RC3[~~16~~], or disposal operations D13 through D15[~~, or DC17~~], recovery and disposal operations defined in Section R315-262-81, a copy of each confirmation of recovery or disposal that the final recovery or disposal facility sent to it for at least three[~~-(3)~~] years from the date that the final recovery or disposal facility [~~completed~~]finished processing the waste shipment; and

(iv) A copy of each contract or equivalent arrangement established per Subsection R315-262-84(f) for at least three[~~-(3)~~] years from the expiration date of the contract or equivalent arrangement.

(3) Importers and receiving facilities may satisfy these recordkeeping requirements by [~~retaining~~]keeping electronically submitted documents in the importer's or receiving facility's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system,

[~~provided that~~]if copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No importer or receiving facility may be held liable for the inability to produce [~~such~~]the documents for inspection under [~~this s~~]Subsection R315-262-84(h) if the importer or receiving facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system that is not the responsibility of[~~for which~~] the importer or receiving facility[~~- bears no responsibility~~].

(4) The periods of retention referred to in Section R315-262-84 are extended automatically during [~~the course of~~]any unresolved enforcement action regarding the regulated activity or as requested by the [~~Director~~]director.

R315-262-200. Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material for Laboratories Owned by Eligible Academic Entities -- Definitions for Sections R315-262-200 [~~t~~]Through R315-262-216.

(a) The following definitions apply to Sections R315-262-200 through R315-262-216:

(1) "College/University" means a private or public, post-secondary, degree-granting, academic institution, that is accredited by an accrediting agency listed annually by the U.S. Department of Education.

(2) "Eligible academic entity" means a college or university, or a non-profit research institute that is owned by or has a formal written affiliation agreement with a college or university, or a teaching hospital that is owned by or has a formal written affiliation agreement with a college or university.

(3) "Formal written affiliation agreement for a non-profit research institute" means a written document that establishes a relationship between institutions for the purposes of research [~~and/~~]or education, or both, and is signed by authorized representatives, as defined by Section R315-260-10, from each institution. A relationship on a project-by-project or grant-by-grant basis is not considered a formal written affiliation agreement. A formal written affiliation agreement for a teaching hospital means a master affiliation agreement and program letter of agreement, as defined by the Accreditation Council for Graduate Medical Education, with an accredited medical program or medical school.

(4) Laboratory means an area owned by an eligible academic entity where relatively small quantities of chemicals and other substances are used on a non-production basis for teaching or research, or diagnostic purposes at a teaching hospital, and are stored and used in containers that are easily manipulated by one person. Photo laboratories, art studios, and field laboratories are considered laboratories. Areas such as chemical stockrooms and preparatory laboratories that provide a support function to teaching or research laboratories, or diagnostic laboratories at teaching hospitals, are also considered laboratories.

(5) "Laboratory clean-out" means an evaluation of the inventory of chemicals and other materials in a laboratory that are no longer needed or that have expired and the subsequent removal of those chemicals or other unwanted materials from the laboratory. A clean-out may occur for several reasons. It may be on a routine basis, for example[~~e.g.~~], at the end of a semester or academic year, or as a result of a renovation, relocation, or change in laboratory supervisor[~~/~~] or occupant. A regularly scheduled removal of unwanted material as required by Section R315-262-208 does not qualify as a laboratory clean-out.

(6) "Laboratory worker" means a person who handles chemicals [~~and/~~]or unwanted material, or both, in a laboratory and may include, but is not limited to, faculty, staff, post-doctoral fellows, interns, researchers, technicians, supervisors[~~/~~] or managers, and principal investigators. A person does not need to be paid or otherwise compensated for [~~his/her~~]their work in the laboratory to be considered a laboratory worker. Undergraduate and graduate students in a supervised classroom setting are not laboratory workers.

(7) "Non-profit research institute" means an organization that conducts research as its primary function and files as a non-profit organization under the tax code of 26 U.S.C. 501(c)(3).

(8) "Reactive acutely hazardous unwanted material" means an unwanted material that is one of the acutely hazardous commercial chemical products listed in Subsection R315-261-33(e) for reactivity.

(9) "Teaching hospital" means a hospital that trains students to become physicians, nurses or other health or laboratory personnel.

(10) "Trained professional" means a person who has [~~completed~~]finished the applicable [~~RCRA~~]training requirements of Section R315-262-17[~~40 CFR 265.16, which is incorporated by reference in Section R315-265-1,~~] for large quantity generators, or is knowledgeable about normal operations and emergencies in accordance with Subsection R315-262-[~~17~~]16(b)(9)(iii) for small quantity generators and for very small quantity generators that opt into Sections R315-262-200 through R315-262-216. A trained professional may be an employee of the eligible academic entity or may be a contractor or vendor who meets the requisite training requirements.

(11) "Unwanted material" means any chemical, mixtures of chemicals, products of experiments or other material from a laboratory that is no longer needed, wanted or usable in the laboratory and that is destined for hazardous waste determination by a trained professional. Unwanted materials include reactive acutely hazardous unwanted materials and materials that may eventually be determined not to be solid waste pursuant to Section R315-261-2, or a hazardous waste pursuant to Section R315-261-3. If an eligible academic entity elects to use another equally effective term in lieu of "unwanted material," as allowed by Subsection R315-262-206(a)(1)(i), the equally effective term has the [~~same~~]meaning and is subject to the [~~same~~]requirements [~~as~~]of "unwanted material" under Sections R315-262-200 through R315-262-216.

(12) "Working container" means a small container, that is,[~~i.e.,~~] two gallons or less, that is in use at a laboratory bench, hood, or other work[-]station, to collect unwanted material from a laboratory experiment or procedure.

R315-262-212. Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material for Laboratories Owned by Eligible Academic Entities -- Making the Hazardous Waste Determination at an On-Site Interim Status or Permitted Treatment, Storage or Disposal Facility.

If an eligible academic entity makes the hazardous waste determination, pursuant to Section R315-262-11, for unwanted material at an on-site interim status or permitted treatment, storage or disposal facility, it shall comply with the following:

(a) A trained professional shall accompany any[~~all~~] unwanted material that is transferred from the laborator[~~y~~(]ies[~~)~~] to an on-site interim status or permitted treatment, storage or disposal facility.

(b) [~~All~~]Any unwanted material removed from the laborator[~~y(~~]ies[~~)~~] shall be taken directly from the laborator[~~y(~~]ies[~~)~~] to the on-site interim status or permitted treatment, storage or disposal facility.

(c) The unwanted material becomes subject to the terms of the eligible academic entity's hazardous waste permit or interim status as soon as it arrives in the on-site treatment, storage or disposal facility.

(d) A trained professional shall determine, pursuant to Subsections R315-262-11(a) through R315-262-11(d), if the unwanted material is a hazardous waste within [~~4~~]four calendar days of the unwanted materials' arrival at an on-site interim status or permitted treatment, storage or disposal facility.

(e) If the unwanted material is a hazardous waste, the eligible academic entity shall:

(1) [~~W~~]write the words "[~~h~~]Hazardous [~~w~~]Waste" on the container label that is affixed or attached to the container within [~~4~~]four calendar days of arriving at the on-site interim status or permitted treatment, storage or disposal facility and before the hazardous waste may be removed from the on-site interim status or permitted treatment, storage or disposal facility[~~,~~]; and

(2) [~~W~~]write the appropriate hazardous waste code[~~(s)~~] on the container label that is associated with the container, or on the label that is affixed or attached to the container, if that is preferred, before the hazardous waste may be treated or disposed on-site or transported off-site[~~,~~]; and

(3) Count the hazardous waste toward the eligible academic entity's generator status, pursuant to [~~Subsections R315-261-5(c) and (d)~~]Section R315-262-13 in the calendar month that the hazardous waste determination was made[~~,~~]; and

(4) Manage the hazardous waste according to the[~~all~~] applicable hazardous waste [~~regulations~~]rules.

R315-262-213. Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material for Laboratories Owned by Eligible Academic Entities -- Laboratory Clean-outs.

(a) One time per [~~12 month~~]12-month period for each laboratory, an eligible academic entity may opt to conduct a laboratory clean-out that is subject to the applicable requirements of Sections R315-262-200 through R315-262-216, except that:

(1) if the volume of unwanted material in the laboratory exceeds 55 gallons, or 1 quart of liquid reactive acutely hazardous unwanted material or 1 kg of solid reactive acutely hazardous unwanted material, the eligible academic entity is not required to remove any unwanted materials from the laboratory within [~~10~~]ten calendar days of exceeding 55 gallons, or 1 quart of liquid reactive acutely hazardous unwanted material or 1 kg of solid reactive acutely hazardous unwanted material, as required by Section R315-262-208. Instead, the eligible academic entity shall remove the unwanted materials from the laboratory within 30 calendar days from the start of the laboratory clean-out; and

(2) for on-site accumulation, an eligible academic entity is not required to count a hazardous waste that is an unused commercial chemical product, listed in Sections R315-261-30 through R315-261-35 or exhibiting one or more characteristics in Sections R315-261-20 through R315-261-24, generated solely during the laboratory clean-out toward its hazardous waste generator category, pursuant to Section R315-262-13. An unwanted material that is generated [~~prior to~~]before the beginning of the laboratory clean-out and is still in the laboratory [~~at the time~~]when the laboratory clean-out [~~commences~~]begins shall be counted toward hazardous waste generator category, pursuant to Section R315-262-13, if it is determined to be hazardous waste; and

(3) for off-site management, an eligible academic entity shall count its hazardous waste, regardless of whether the hazardous waste was counted toward generator category under Subsection R315-262-213(a)(2), and if it generates more than 1 kg per month of acute hazardous waste or more than 100 kg per month of non-acute hazardous waste, that is, the very small quantity generator limits as defined in Section R315-260-10, the hazardous waste is subject to the applicable hazardous waste rules [~~when~~]if it is transported off site; and

(4) an eligible academic entity shall document the activities of the laboratory clean-out. The documentation shall, at a minimum, identify the laboratory being cleaned out, the date the laboratory clean-out begins and ends, and the volume of hazardous waste generated during the laboratory clean-out. The eligible academic entity shall maintain the records for a period of three years from the date the clean-out ends.

(b) For any other laboratory clean-outs conducted during the [~~same~~]12-month period, an eligible academic entity is subject to the applicable requirements of Sections R315-262-200 through R315-262-216, including:

(1) [~~the~~]The requirement to remove unwanted materials from the laboratory within [~~10~~]ten calendar days of exceeding 55 gallons, or 1 quart of reactive acutely hazardous unwanted material, as required by Section R315-262-208; and

(2) [~~the~~]The requirement to count each hazardous waste, including unused hazardous waste, generated during the laboratory clean-out toward its hazardous waste generator category, pursuant to Section R315-262-13.

R315-262-232. Alternative Standards for Episodic Generation -- Conditions for a Generator Managing Hazardous Waste from an Episodic Event.

(a) Very small quantity generator. A very small quantity generator may maintain its existing generator category for hazardous waste generated during an episodic event [~~provided that~~]if the generator complies with the following conditions:

(1) The very small quantity generator is limited to one episodic event per calendar year, unless a petition is granted under Section R315-262-233;

(2) Notification. The very small quantity generator shall notify the [~~Director~~]director no later than [~~thirty (~~]30[~~)~~] calendar days [~~prior to~~]before initiating a planned episodic event using EPA Form 8700-12. In the event of an unplanned episodic event, the generator shall notify the [~~Director~~]director within 72 hours of the unplanned event via phone, email, or fax and subsequently submit EPA Form 8700-12. The generator shall include the start date and end date of the episodic event, the reasons[~~(s)~~] for the event, types and estimated quantities of hazardous waste expected to be generated as a result of the episodic event, and shall identify a facility contact and emergency coordinator with 24-hour telephone access to discuss the notification submittal or respond to an emergency in compliance with Subsection R315-262-16(b)(9)(i);

(3) EPA ID Number. The very small quantity generator shall have an EPA identification number or [~~obtain~~]get an EPA identification number using EPA Form 8700-12;

(4) Accumulation. A very small quantity generator is prohibited from accumulating hazardous waste generated from an episodic event on drip pads and in containment buildings. When accumulating hazardous waste in containers and tanks the following conditions apply:

(i) Containers. A very small quantity generator accumulating in containers shall mark or label its containers with the following:

(A) The words "Episodic Hazardous Waste";

(B) An indication of the hazards of the contents, examples include:

(I) the applicable hazardous waste characteristics[~~(s)~~], that is,[~~i.e.,~~] ignitable, corrosive, reactive, toxic;

(II) hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E, labeling, or subpart F, placarding;

(III) a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or

(IV) a chemical hazard label consistent with the National Fire Protection Association code 704; and

(C) The date [~~upon which~~]when the episodic event began, clearly visible for inspection on each container.

(ii) Tanks. A very small quantity generator accumulating episodic hazardous waste in tanks shall do the following:

(A) Mark or label the tank with the words "Episodic Hazardous Waste";

(B) Mark or label its tanks with an indication of the hazards of the contents, examples include[~~, but are not limited to~~]:

(I) the applicable hazardous waste characteristics[~~(s)~~], that is,[~~i.e.,~~] ignitable, corrosive, reactive, toxic;

(II) hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E, labeling, or subpart F, placarding;

(III) a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or

(IV) a chemical hazard label consistent with the National Fire Protection Association code 704;

(C) Use inventory logs, monitoring equipment or other records to identify the date [~~upon which~~]when each episodic event begins; and

(D) Keep inventory logs or records with the [~~above~~]information required by Subsection R315-262-232(a)(4)(ii)(C) on site and readily available for inspection.

(iii) Hazardous waste shall be managed in a manner that minimizes the possibility of a fire, explosion, or release of hazardous waste or hazardous waste constituents to the air, soil, or water;

(A) Containers shall be in good condition and compatible with the hazardous waste being accumulated therein. Containers shall be kept closed except to add or remove waste; and

(B) Tanks shall be in good condition and compatible with the hazardous waste accumulated therein. Tanks shall have procedures in place to prevent the overflow, for example[~~(e.g.~~], be equipped with a means to stop inflow with systems such as a waste feed cutoff system or bypass system to a standby tank [~~when~~]if hazardous waste is continuously fed into the tank[~~)~~]. Tanks shall be inspected at least once each operating day to ensure [~~all~~]any applicable discharge control equipment, such as waste feed cutoff systems, bypass systems, and drainage systems are in good working order and to ensure the tanks are[~~, is~~] operated according to their[~~, its~~] designs by reviewing the data gathered during the inspection from monitoring equipment such as pressure and temperature gauges[~~, from the inspection~~].

(5) The very small quantity generator shall comply with the hazardous waste manifest [~~provisions~~]requirements of Sections R315-262-20 through R315-262-27 and the recordkeeping provisions for small quantity generators in Section R315-262-44 when it sends its episodic event hazardous waste off site to a designated facility, as defined in Section R315-260-10.

(6) The very small quantity generator has up to [~~sixty (~~]60[~~)~~] calendar days from the start of the episodic event to manifest and send its hazardous waste generated from the episodic event to a designated facility, as defined in Section R315-260-10.

(7) Very small quantity generators shall maintain the following records for three[~~, (3)~~] years from the end date of the episodic event:

(i) Beginning and end dates of the episodic event;

(ii) A description of the episodic event;

(iii) A description of the types and quantities of hazardous wastes generated during the event;

(iv) A description of how the hazardous waste was managed as well as the name of the designated facility that received the hazardous waste;

(v) Names[~~(s)~~] of hazardous waste transporters; and

(vi) An approval letter from the [~~Director~~]director if the generator petitioned to conduct one additional episodic event per calendar year.

(b) Small quantity generators. A small quantity generator may maintain its existing generator category during an episodic event [~~provided that~~]if the generator complies with the following conditions:

(1) The small quantity generator is limited to one episodic event per calendar year unless a petition is granted under Section R315-262-233;

(2) Notification. The small quantity generator shall notify the [~~Director~~]director no later than [~~thirty (~~]30[~~)~~] calendar days [~~prior to~~]before initiating a planned episodic event using EPA Form 8700-12. In the event of an unplanned episodic event, the small quantity generator shall notify the [~~Director~~]director within 72 hours of the unplanned event via phone, email, or fax, and subsequently submit EPA Form 8700-12. The small quantity generator shall include the start date and end date of the episodic event and the reasons[~~(s)~~] for the event, types and estimated quantities of hazardous wastes expected to be generated as a result of the episodic event, and identify a facility contact and emergency coordinator with 24-hour telephone access to discuss the notification submittal or respond to emergency;

(3) EPA ID Number. The small quantity generator shall have an EPA identification number or [~~obtain~~]get an EPA identification number using EPA Form 8700-12; and

(4) Accumulation by small quantity generators. A small quantity generator is prohibited from accumulating hazardous wastes generated from an episodic event waste on drip pads and in containment buildings. [~~When~~]If accumulating hazardous waste generated from an episodic event in containers and tanks, the following conditions apply:

(i) Containers. A small quantity generator accumulating episodic hazardous waste in containers shall meet the standards at Subsection R315-262-16(b)(2) and shall mark or label its containers with the following:

(A) The words "Episodic Hazardous Waste";

(B) An indication of the hazards of the contents, examples include[~~, but are not limited to~~]:

(I) the applicable hazardous waste characteristics[~~(s)~~], that is,[~~i.e.,~~] ignitable, corrosive, reactive, toxic;

(II) hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E, labeling, or subpart F, placarding;

(III) a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or

(IV) a chemical hazard label consistent with the National Fire Protection Association code 704; and

(C) The date [~~upon which~~]when the episodic event began, clearly visible for inspection on each container.

(ii) Tanks. A small quantity generator accumulating episodic hazardous waste in tanks shall meet the standards at Subsection R315-262-16(b)(3) and shall do the following:

(A) Mark or label its tank with the words "Episodic Hazardous Waste";

(B) Mark or label its tanks with an indication of the hazards of the contents, examples include[~~, but are not limited to~~]:

(I) the applicable hazardous waste characteristics[~~(s)~~], that is,[~~i.e.,~~] ignitable, corrosive, reactive, toxic;

(II) hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E, labeling, or subpart F, placarding;

(III) a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or

(IV) a chemical hazard label consistent with the National Fire Protection Association code 704;

(C) Use inventory logs, monitoring equipment or other records to identify the date [~~upon which~~]when each[~~ period of accumulation~~] episodic event begins[~~ and ends~~]; and

(D) Keep inventory logs or records with the [~~above~~]information required by Subsection R315-262-232(b)(4)(ii)(C) on site and available for inspection.

(5) The small quantity generator shall treat hazardous waste generated from an episodic event on site or manifest and ship [~~such~~]the hazardous waste off site to a designated facility, [~~(~~]as defined by Section R315-260-10[~~)~~], within [~~sixty (~~]60[~~)~~] calendar days from the start of the episodic event.

(6) The small quantity generator shall maintain the following records for three[~~ (3)~~] years from the end date of the episodic event:

(i) Beginning and end dates of the episodic event;

(ii) A description of the episodic event;

(iii) A description of the types and quantities of hazardous wastes generated during the event;

(iv) A description of how the hazardous waste was managed as well as the name of the designated facility, [~~(~~]as defined by Section R315-260-10[~~)~~], that received the hazardous waste;

(v) Names[~~(s)~~] of hazardous waste transporters; and

(vi) An approval letter from the [~~Director~~]director if the generator petitioned to conduct one additional episodic event per calendar year.

R315-262-265. Preparedness, Prevention, and Emergency Procedures for Large Quantity Generators -- Emergency Procedures.

(a) When[~~ever~~] there is an imminent or actual emergency situation, the emergency coordinator, [~~(~~]or designee when the emergency coordinator is on call[~~)~~], shall immediately:

(1) [~~A~~]activate internal facility alarms or communication systems, [~~where~~]if applicable, to notify [~~all~~]facility personnel; and

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

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

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

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

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

(2) The emergency coordinator shall immediately notify either the government official designated as the on-scene coordinator for that geographical area, or the National Response Center, using their 24-hour toll free number 800-424-8802, and the Division of Waste Management and Radiation Control at 801-536-0200 or after hours at 801-536-4123. The report shall include:

(i) Name and telephone number of reporter;

(ii) Name and address of the generator;
(iii) Time and type of incident, for example, [~~(e.g.,)~~]release, fire);
(iv) Name and quantity of materials[~~(s)~~] involved, to the extent known;
(v) The extent of injuries, if any; and
(vi) The possible hazards to human health, or the environment, outside the facility.

(e) During an emergency, the emergency coordinator shall take any[~~all~~] reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other hazardous waste at the generator's facility. These measures shall include, [~~where~~]if applicable, stopping processes and operations, collecting and containing released hazardous waste, and removing or isolating containers.

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

(g) Immediately after an emergency, the emergency coordinator shall provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility. Unless the generator can demonstrate, in accordance with Subsection[~~s~~] R315-261-3(c) or R315-261-3(d), that the recovered material is not a hazardous waste, then it is a newly generated hazardous waste that shall be managed in accordance with [~~all~~]the applicable requirements and conditions for exemption in Rules R315-262, R315-263, and R315-265.

(h) The emergency coordinator shall ensure that, in the affected areas[~~(s)~~] of the facility:

(1) [~~N~~]no hazardous waste that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are [~~completed~~]finished; and

(2) the[~~All~~] emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

(i) The generator shall note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, the generator shall submit a written report on the incident to the [~~Director~~]director. The report shall include:

([~~I~~]1) Name, address, and telephone number of the generator;
([~~II~~]2) Date, time, and type of incident, for example[~~e.g.~~], fire[~~,~~] or explosion;
([~~III~~]3) Name and quantity of materials[~~(s)~~] involved;
([~~IV~~]4) The extent of injuries, if any;
([~~V~~]5) An assessment of actual or potential hazards to human health or the environment, [~~where~~]if this [~~is applicable~~]applies; and
([~~VI~~]6) Estimated quantity and disposition of recovered material that resulted from the incident.

KEY: hazardous waste, generators
Date of Last Change: 2025[~~January 17, 2023~~]
Notice of Continuation: January 14, 2021
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R315-264**	**Filing ID: 56943**

Agency Information

1. Title catchline:	Environmental Quality, Waste Management and Radiation Control, Waste Management	
Building:	MASOB	
Street address:	195 N. 1950 W.	
City, state:	Salt Lake City, Utah	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, Utah 84114-4880	
Contact persons:		
Name:	**Phone:**	**Email:**
Tom Ball	385-454-5587	tball@utah.gov
Kari Lundeen	385-499-4923	klundeen@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R315-264. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

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

The EPA made technical corrections that correct or clarify parts of the hazardous waste regulations. Examples of the types of corrections being made include correcting typographical errors, correcting incorrect or outdated citations, and updating addresses. These changes are being made in the Utah Hazardous Waste Rules because Utah is authorized to oversee the hazardous waste program in Utah and must have rules that are equivalent to the federal regulations.

4. Summary of the new rule or change:

The rule citation contained in Subsection R315-264-1(g)(3) is being updated to include a reference to Sections R315-262-200 through R315-262-216 (Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material for Laboratories Owned by Eligible Academic Entities) and Sections R315-262-230 through R315-262-233 (Alternative Standards for Episodic Generation).

Subsection R315-264-12(a)(4)(ii) updates the reference numbers for recovery and disposal operations (defined in Section R315-262-81).

Subsection R315-264-72(a)(3) was revised to include a reference to Section R315-266-507 (residues of hazardous waste pharmaceuticals in empty containers).

In Subsection R315-264-1013(a)(3), the reference to Subsection R315-262-34(a) was corrected. The correct reference is R315-262-17.

In Subsection R315-264-1050(b)(2), the reference to Subsection R315-262-34(a) was corrected. The correct reference is R315-262-17.

Fiscal Information

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

A) State budget:

It is not anticipated that the amendments to this rule will cause any cost or savings to the state budget because they do not add or remove any requirements from the rule.

B) Local governments:

It is not anticipated that the amendments to this rule will cause any cost or savings to local governments because they do not add or remove any requirements from the rule.

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

It is not anticipated that the amendments to this rule will cause any cost or savings to small businesses that must comply with the rule because they do not add or remove any requirements from the rule.

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

It is not anticipated that the amendments to this rule will cause any cost or savings to non-small businesses that must comply with the rule because they do not add or remove any requirements from the rule.

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 amendments to this rule will cause any cost or savings to persons other than small businesses, non-small businesses, state or local government entities that must comply with the rule because they do not add or remove any requirements from the rule.

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

Because the changes to this rule do not add or remove any requirements from the rule it is not anticipated that there will be any new compliance costs for any affected persons due to the changes.

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	**FY2025**	**FY2026**	**FY2027**
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	**FY2025**	**FY2026**	**FY2027**
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 19-6-105	Section 19-6-106	

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:	12/31/2024

9. This rule change MAY become effective on:	01/13/2025
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen Director	**Date:**	11/14/2024

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-264. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.
R315-264-1. General -- Purpose, Scope and Applicability.

(a) The purpose of Rule R315-264 is to establish minimum standards that define the acceptable management of hazardous waste.

(b) The standards in Rule R315-264 apply to each owner and operator of facilities that treat, store, or dispose of hazardous waste, except as specifically provided otherwise in Rule[~~s~~] R315-264 or R315-261.

(c) Reserved.

(d) The requirements of Rule R315-264 apply to a person disposing of hazardous waste by [~~means of~~]underground injection subject to a permit issued under an Underground Injection Control (UIC) program approved or promulgated under the Safe Drinking Water Act only to the extent they are required by 40 CFR 144.14. Rule R315-264 applies to the above[-]ground treatment or storage of hazardous waste before it is injected underground.

(e) The requirements of Rule R315-264 apply to each owner or operator of a POTW that treats, stores, or disposes of hazardous waste only to the extent they are included in a RCRA permit by rule granted to such a person under Rule R315-270.

(f) Reserved.

(g) The requirements of Rule R315-264 do not apply to the [~~following~~]Subsections R315-264-1(g)(1) through R315-264-1(g)(13):

(1) The owner or operator of a facility permitted under Rules R315-301 through R315-320 to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under Rule R315-264 by Section R315-262-14.

(2) The owner or operator of a facility managing recyclable materials described in Subsections R315-261-6(a)(2), R315-261-6(a)(3), and R315-261-6(a)(4), except to the extent they are referred to in Rule R315-15 or Sections R315-266-20 through R315-266-23, R315-266-70, R315-266-80, or R315-266-100 through R315-266-112.

(3) A generator accumulating waste on site in compliance with Sections R315-262-14, R315-262-15, R315-262-16, or R315-262-17 or Sections R315-262-200 through R315-262-216 or Sections R315-262-230 through R315-262-233.

(4) A farmer disposing of waste pesticides from the farmer's own use in compliance with Section R315-262-70.

(5) The owner or operator of a totally enclosed treatment facility, as defined in Section R315-260-10.

(6) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in Section R315-260-10, shall comply with the requirements set out in Subsection R315-264-17(b)[~~provided that~~] if the owner or operator is diluting hazardous ignitable (D001) wastes, other than the D001 High TOC Subcategory defined in Section R315-268-40, or reactive (D003) waste, to remove the characteristic before land disposal[~~, the owner or operator shall comply with the requirements set out in Subsection R315-264-17(b)~~].

(7) Reserved.

(8)(i) Except as provided in Subsection R315-264-1(g)(8)(ii), a person engaged in treatment or containment activities during immediate response to any of the [~~following~~]situations in Subsections R315-264-1(g)(8)(i) through R315-264-1(g)(8)(iv):

(A) a discharge of a hazardous waste;

(B) an imminent and substantial threat of a discharge of hazardous waste; or

(C) a discharge of a material that, if discharged, becomes a hazardous waste.

(ii) An owner or operator of a facility otherwise regulated by Rule R315-264 shall comply with the applicable requirements of Sections R315-264-30 through R315-264-35, R315-264-37, and R315-264-50 through R315-264-56.

(iii) Any person who is covered by Subsection R315-264-1(g)(8)(i) and who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to the applicable requirements of Rule R315-264 and 40 CFR 122 and 123 and Rule R315-124 for those activities.

(iv) In the case of an explosives or munitions emergency response, if a [~~F~~]federal, [~~S~~]state, [~~T~~]tribal or local official acting within the scope of their official responsibilities, or an explosives or munitions emergency response specialist, determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters who do not have EPA identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit shall [~~retain~~]keep records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

(9) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of Section R315-262-30 at a transfer facility for a period of ten days or less.

(10) The addition of absorbent material to waste in a container, as defined in Section R315-260-10, or the addition of waste to absorbent material in a container, [~~provided that~~]if these actions occur [~~at the time~~]when waste is first placed in the container[~~:~~], and Subsection[~~s~~] R315-264-17(b) and Sections R315-264-171 and R315-264-172 are complied with.

(11) Universal waste handlers and universal waste transporters, as defined in Section R315-260-10, handling the wastes listed in Subsections R315-264-1(g)(11)(i) through R315-264-1(g)(11)(vi). These handlers are subject to regulation under Rule R315-273, if handling the [~~following~~]universal wastes listed in Subsections R315-264-1(g)(11)(i) through R315-264-1(g)(11)(vi):

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

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

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

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

(v) aerosol cans as described in Section R315-272-6; and

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

(12) Reserved.

(13) Reverse distributors accumulating potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals, as defined in Section R315-266-500. Reverse distributors are subject to regulation under Sections R315-266-500 through R315-266-510 in lieu of Rule R315-264 for the accumulation of potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals.

(h) The requirements of Rule R315-264 apply to each owner or operator of facilities that treat, store, or dispose of hazardous wastes referred to in Rule R315-268.

(i) Reserved.

(j) The requirements of Sections R315-264-10 through R315-264-19, R315-264-30 through R315-264-37, R315-264-50 through R315-264-56, and R315-264-101 do not apply to remediation waste management sites. However, [~~some~~]remediation waste management sites may be a part of a facility that is subject to a traditional hazardous waste permit because the facility is also treating, storing, or disposing of hazardous wastes that are not remediation wastes. In these cases, Sections R315-264-10 through R315-264-19, R315-264-30 through R315-

264-37, R315-264-50 through R315-264-56, and R315-264-101 do apply to the facility subject to the traditional hazardous waste permit. Instead of the requirements of Sections R315-264-10 through R315-264-19, R315-264-30 through R315-264-37, and R315-264-50 through R315-264-56, owners or operators of remediation waste management sites shall [~~do the following~~]comply with Subsections R315-264-1(j)(1) through R315-264-1(j)(13):

(1) [~~Obtain~~]Get an EPA identification number by applying to the [~~D~~]director using EPA Form 8700-12.

(2) [~~Obtain~~]Get a detailed chemical and physical analysis of a representative sample of the hazardous remediation wastes to be managed at the site. At a minimum, the analysis shall contain the information [~~which~~]that shall be known to treat, store or dispose of the waste according to Rules R315-264 and R315-268, and shall be kept accurate and up to date.

(3) Prevent people who are unaware of the danger from entering, and minimize the possibility for unauthorized people or livestock to enter onto the active portion of the remediation waste management site, unless the owner or operator can demonstrate to the [~~D~~]director that:

(i) physical contact with the waste, structures, or equipment within the active portion of the remediation waste management site [~~shall~~]may not injure people or livestock who may enter the active portion of the remediation waste management site; and

(ii) disturbance of the waste or equipment by people or livestock who enter onto the active portion of the remediation waste management site, [~~shall~~]may not cause a violation of the requirements of Rule R315-264.

(4) Inspect the remediation waste management site for malfunctions, deterioration, operator errors, and discharges that may be causing, or may lead to, a release of hazardous waste constituents to the environment, or a threat to human health. The owner or operator shall conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment and shall remedy the problem before it leads to a human health or environmental hazard. [~~Where~~]If a hazard is imminent or has already occurred, the owner or operator shall take remedial action immediately.

(5) Provide personnel with classroom or on-the-job training on how to perform their duties in a way that ensures the remediation waste management site complies with the requirements of Rule R315-264, and on how to respond effectively to emergencies.

(6) Take precautions to prevent accidental ignition or reaction of ignitable or reactive waste and prevent threats to human health and the environment from ignitable, reactive and incompatible waste.

(7) For remediation waste management sites subject to regulation under Sections R315-264-170 through R315-264-179, R315-264-190 through R315-264-200, R315-264-220 through R315-264-232, R315-264-250 through R315-264-259, R315-264-270 through R315-264-283, R315-264-300 through R315-264-317, R315-264-340 through R315-264-351, and R315-264-600 through R315-264-603, the owner or operator shall design, construct, operate, and maintain a unit within a 100-year floodplain to prevent washout of any hazardous waste by a 100-year flood, unless the owner or operator can meet the demonstration of Subsection R315-264-18(b).

(8) Not place any non-containerized or bulk liquid hazardous waste in any salt dome formation, salt bed formation, underground mine or cave.

(9) Develop and maintain a construction quality assurance program for each surface impoundment, waste pile and landfill unit that are required to comply with Subsections R315-264-221(c) and R315-264-221(d), R315-264-251(c) and R315-264-251(d), and R315-264-301(c) and R315-264-301(d) at the remediation waste management site, according to the requirements of Section R315-264-19.

(10) Develop and maintain procedures to prevent accidents and a contingency and emergency plan to control accidents that occur. These procedures shall address proper design, construction, maintenance, and operation of remediation waste management units at the site. The goal of the plan shall be to minimize the possibility of, and the hazards from a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water that could threaten human health or the environment. The plan shall explain specifically how to treat, store and dispose of the hazardous remediation waste in question, and shall be implemented immediately [~~whenever~~]if a fire, explosion, or release of hazardous waste or hazardous waste constituents[~~which~~] could threaten human health or the environment.

(11) Designate at least one employee, either on the facility premises or on call, that is, available to respond to an emergency by reaching the facility quickly, to coordinate emergency response measures. This emergency coordinator shall be thoroughly familiar with the facility's contingency plan, operations and activities at the facility, the location and characteristics of waste handled, the location of the records within the facility, and the facility layout. In addition, this person shall have the authority to commit the resources needed to carry out the contingency plan.

(12) Develop, maintain, and implement a plan to meet the requirements in Subsections R315-264-1(j)(2) through R315-264-1(j)(6) and R315-264-1(j)(9) through R315-264-1(j)(10).

(13) Maintain records documenting compliance with Subsections R315-264-1(j)(1) through R315-264-1(j)(12).

R315-264-12. General Facility Standards - Required Notices.

(a) The owner or operator of a facility that is arranging or has arranged to receive hazardous waste subject to Sections R315-262-80 through R315-262-84 from a foreign source shall submit the [~~following required~~]notices required by Subsections R315-264-12(a)(1) through R315-264-12(a)(4):

(1) [~~As per~~]In accordance with Subsection R315-262-84(b), for imports where the competent authority of the country of export does not require the foreign exporter to submit to it a notification proposing export and [~~obtain~~]get consent from EPA and the competent authorities for the countries of transit, [~~such~~]the owner or operator of the facility, if acting as the importer, shall provide notification of the proposed transboundary movement in English to EPA using the allowable methods listed in Subsection R315-262-84(b)(1) at least 60 days before the first shipment is expected to depart the country of export. The notification may cover up to one year of shipments of wastes having similar physical and chemical characteristics, the same United Nations classification, the same RCRA waste codes and OECD waste codes, and being sent from the same foreign exporter.

(2) [~~As per~~]In accordance with Subsection R315-262-84(d)(2)(xv), a copy of the movement document bearing [~~all~~]each required signature[~~s~~] within three working days of receipt of the shipment to the foreign exporter[~~:~~]. to the competent authorities of the countries of

export and transit that control the shipment as an export and transit shipment of hazardous waste respectively[~~;~~], and on or after the electronic import[~~-~~] export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original of the signed movement document shall be maintained at the facility for at least three years. The owner or operator of a facility may satisfy this recordkeeping requirement by [~~retaining~~]keeping electronically submitted documents in the facility's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, [~~provided that~~]if copies are readily available for viewing and production if requested by any EPA or Utah inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under Section R315-264-12 if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system [~~for which~~]that the owner or operator of a facility bears no responsibility.

(3) [~~As per~~]In accordance with Subsection R315-262-84(f)(4), if the facility has physical control of the waste and it must be sent to an alternate facility or returned to the country of export, [~~such~~]the owner or operator of the facility shall inform EPA, using the allowable methods listed in Subsection R315-262-84(b)(1) of the need to return or arrange alternate management of the shipment.

(4) [~~As per~~]In accordance with Subsection R315-262-84(g), [~~such~~]the owner or operator shall:

(i) Send copies of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than 30 days after completing recovery or disposal on the waste in the shipment and no later than one calendar year following receipt of the waste, to the foreign exporter, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and for shipments recycled or disposed of on or after the electronic import[~~-~~] export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system.

(ii) If the facility performed any of recovery operations R12, R13, or RC[~~16~~]3, or disposal operations D13 through D15, [~~or DC17,~~]promptly send copies of the confirmation of recovery or disposal that it receives from the final recovery or disposal facility within one year of shipment delivery to the final recovery or disposal facility that performed one of recovery operations R1 through R11, or RC1[~~6~~], or one of disposal operations D1 through D12, or DC1[~~5~~] to DC[~~16~~]2, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and on or after the electronic import[~~-~~] export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The recovery and disposal operations in Subsection R315-264-12(a)(4)(ii) are defined in Section R315-262-81.

(b) The owner or operator of a facility that receives hazardous waste from an off-site source, except [~~where~~]if the owner or operator is also the generator, shall inform the generator in writing that [~~he~~]the owner or operator has the appropriate permit[~~(~~]s[~~)~~] for, and will accept, the waste the generator is shipping. The owner or operator shall keep a copy of this written notice as part of the operating record.

(c) Before transferring ownership or operation of a facility during its operating life, or of a disposal facility during the post-closure care period, the owner or operator shall notify the new owner or operator in writing of the requirements of Rule R315-264 and Rule R315-270. An owner's or operator's failure to notify the new owner or operator of the requirements of Rule R315-264 in no way relieves the new owner or operator of [~~his~~]their obligation to comply with [~~all~~]the applicable requirements.

R315-264-15. General Facility Standards -- General Inspection Requirements.

(a) The owner or operator shall inspect [~~his~~]their facility for malfunctions and deterioration, operator errors, and discharges [~~which~~]that may be causing, [~~-~~]or may lead to, [~~-~~]release of hazardous waste constituents to the environment or a threat to human health. The owner or operator shall conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.

(b)(1) The owner or operator shall develop and follow a written schedule for inspecting monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment, such as dikes and sump pumps, that are important to preventing, detecting, or responding to environmental or human health hazards.

(2) [~~He~~] The owner or operator shall keep this schedule at the facility.

(3) The schedule shall identify the types of problems, [~~e.g.~~]for example, malfunctions or deterioration, [~~which~~]that are to be looked for during the inspection, [~~e.g.~~]for example, inoperative sump pump, leaking fitting, eroding dike[~~, etc~~].

(4) The frequency of inspection may vary for the items on the schedule. However, the frequency should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, shall be inspected daily when in use. At a minimum, the inspection schedule shall include the items and frequencies called for in Sections R315-264-174, R315-264-193, R315-264-195, R315-264-226, R315-264-254, R315-264-278, R315-264-303, R315-264-347, R315-264-602, R315-264-1033, R315-264-1052, R315-264-1053, R315-264-1058, and R315-264-1083 through R315-264-1089, [~~where~~]if applicable. Rule R315-270 requires the inspection schedule to be submitted with part B of the permit application. The [~~D~~]director shall evaluate the schedule along with the rest of the application to ensure that it adequately protects human health and the environment. As part of this review, [~~T~~]the [~~D~~]director may modify or amend the schedule as may be necessary.

(c) The owner or operator shall remedy any deterioration or malfunction of equipment or structures [~~which~~]that the inspection reveals on a schedule [~~which~~]that ensures that the problem does not lead to an environmental or human health hazard. [~~Where~~]If a hazard is imminent or has already occurred, remedial action shall be taken immediately.

(d) The owner or operator shall record inspections in an inspection log or summary. [~~He~~]The owner or operator shall keep these records for at least three years from the date of inspection. At a minimum, these records shall include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

R315-264-72. Manifest Discrepancies.

(a) Manifest discrepancies are:

(1) [~~S~~]significant differences, as defined by Subsection R315-264-72(b), between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives;

(2) [~~R~~]rejected wastes, which may be a full or partial shipment of hazardous waste that the treatment, storage, or disposal facility cannot accept; or

(3) [~~C~~]container residues, which are residues that exceed the quantity limits for ["]empty["] containers set forth in Subsection R315-261-7(b) and Section R315-266-507.

(b) Significant differences in quantity are: [~~F~~]for bulk waste, variations greater than 10% [~~percent~~]in weight; for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. Significant differences in type are obvious differences [~~which~~]that can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper.

(c) Upon discovering a significant difference in quantity or type, the owner or operator shall [~~attempt~~]try to reconcile the discrepancy with the waste generator or transporter, [~~e.g.,~~]for example with telephone conversations. If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator shall immediately submit to the [~~D~~]director a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

(d)(1) Upon rejecting waste or identifying a container residue that exceeds the quantity limits for ["]empty["] containers set forth in Subsection R315-261-7(b), the facility shall consult with the generator [~~prior to~~]before forwarding the waste to another facility that can manage the waste. If it is impossible to locate an alternative facility that can receive the waste, the facility may return the rejected waste or residue to the generator. The facility shall send the waste to the alternative facility or to the generator within 60 days of the rejection or the container residue identification.

(2) While the facility is making arrangements for forwarding rejected wastes or residues to another facility under Section R315-264-72, it shall ensure that either the delivering transporter [~~retains~~]keeps custody of the waste, or, the facility shall provide for secure, temporary custody of the waste, pending delivery of the waste to the first transporter designated on the manifest prepared under Subsection[~~s~~] R315-264-72(e) or R315-264-72(f).

(e) Except as provided in Subsection[~~s~~] R315-264-72(e)(7), for full or partial load rejections and residues that are to be sent off-site to an alternate facility, the facility [~~is required to~~]shall prepare a new manifest in accordance with Subsection R315-262-20(a) and the [~~following~~]instructions contained in Subsections R315-264-72(e)(1) through R315-264-72(e)(7):

(1) Write the generator's U.S. EPA ID number in Item 1 of the new manifest. Write the generator's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the generator's site address, then write the generator's site address in the designated space for Item 5.

(2) Write the name of the alternate designated facility and the facility's U.S. EPA ID number in the designated facility block, Item 8, of the new manifest.

(3) Copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

(4) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest, Item 18a.

(5) Write the DOT description for the rejected load or the residue in Item 9, U.S. DOT Description, of the new manifest and write the container types, quantity, and volume[~~(~~]s[~~)~~] of waste.

(6) Sign the Generator's/Offeror's Certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation, and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.

(7) For full load rejections that are made while the transporter remains present at the facility, the facility may forward the rejected shipment to the alternate facility by completing Item 18b of the original manifest and supplying the information on the next destination facility in the Alternate Facility space. The facility shall [~~retain~~]keep a copy of this manifest for its records, and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility shall use a new manifest and comply with Subsections R315-264-72(e)(1), R315-264-72(e)(2), R315-264-72(e)(3), R315-264-72(e)(4), R315-264-72(e)(5), and R315-264-72(e)(6).

(f) Except as provided in Subsection R315-264-72(f)(7), for rejected wastes and residues that shall be sent back to the generator, the facility [~~is required to~~]shall prepare a new manifest in accordance with Subsection R315-262-20(a) and the[~~following~~] instructions contained in Subsections R315-264-72(f)(1) through R315-264-72(f)(8):

(1) Write the facility's U.S. EPA ID number in Item 1 of the new manifest. Write the facility's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the facility's site address, then write the facility's site address in the designated space for Item 5 of the new manifest.

(2) Write the name of the initial generator and the generator's U.S. EPA ID number in the designated facility block, Item 8, of the new manifest.

(3) Copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

(4) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest, Item 18a.

(5) Write the DOT description for the rejected load or the residue in Item 9, U.S. DOT Description, of the new manifest and write the container types, quantity, and volume[~~(~~]s[~~)~~] of waste.

(6) Sign the Generator's/Offeror's Certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

(7) For full load rejections that are made while the transporter remains at the facility, the facility may return the shipment to the generator with the original manifest by completing Item 18a and 18b of the manifest and supplying the generator's information in the Alternate Facility space. The facility shall [~~retain~~]keep a copy for its records and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility shall use a new manifest and comply with Subsections R315-264-72(f)(1), R315-264-72(f)(2), R315-264-72(f)(3), R315-264-72(f)(4), R315-264-72(f)(5), R315-264-72(f)(6), and R315-264-72(f)(8).

(8) For full or partial load rejections and container residues contained in non[~~-~~] empty containers that are returned to the generator, the facility shall also comply with the exception reporting requirements in Subsection R315-262-42(a).

(g) If a facility rejects a waste or identifies a container residue that exceeds the quantity limits for ["]empty["] containers set forth in Subsection R315-261-7(b) after it has signed, dated, and returned a copy of the manifest to the delivering transporter or to the generator, the facility shall amend its copy of the manifest to [~~indicate~~]show the rejected wastes or residues in the discrepancy space of the amended manifest. The facility shall also copy the manifest tracking number from Item 4 of the new manifest to the Discrepancy space of the amended manifest, and shall re[~~-~~]sign and date the manifest to certify to the information as amended. The facility shall [~~retain~~]keep the amended manifest for at least three years from the date of amendment, and shall within 30 days, send a copy of the amended manifest to the transporter and generator that received copies [~~prior to~~]before their being amended.

R315-264-1030. Air Emission Standards for Process Vents -- Applicability.

(a) The [~~regulations~~]rules in Sections R315-264-1030 through R315-264-1036 apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes, except as provided in Section R315-264-1.

(b) Except for Subsections R315-264-1034(d) and R315-264-1034(e), Sections R315-264-1030 through R315-264-1036 apply to process vents associated with distillation, fractionation, thin[~~-~~] film evaporation, solvent extraction, or air or steam stripping operations that manage hazardous wastes with organic concentrations of at least 10 ppmw, if these operations are conducted in one of the [~~following~~]units listed in Subsections R315-264-1030(b)(1) through R315-264-1030(b)(3):

(1) A unit that is subject to the permitting requirements of Rule R315-270[~~,~~];; or

(2) A unit, including a hazardous waste recycling unit, that is not exempt from permitting under [~~the provisions of~~]Section R315-262-17, [~~i.e.~~]that is, a hazardous waste recycling unit that is not a 90-day tank or container, and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of Rule R315-270[~~,~~];; or

(3) A unit that is exempt from permitting under [~~the provisions of~~]S[~~ubs~~]ection R315-262-17[~~34(a)~~], [~~i.e.~~]that is, a ["]90-day["] tank or container, and is not a recycling unit under [~~the provisions of~~]Section R315-261-6.

(c) For the owner and operator of a facility subject to Sections R315-264-1030 through R315-264-1036 and who received a final permit under Section 19-6-108 [~~prior to~~]before December 6, 1996, the requirements of Sections R315-264-1030 through R315-264-1036 shall be incorporated into the permit [~~when~~]if the permit is reissued in accordance with the requirements of Section R315-124-15 or reviewed in accordance with the requirements of Subsection R315-270-50(d). Until [~~such~~]the date when the owner and operator receive a final permit incorporating the requirements of Sections R315-264-1030 through R315-264-1036, the owner and operator are subject to the requirements of [~~40 CFR~~]Sections R315-265[~~.~~]-1030 through R315-265[~~.~~]-1035[~~, which is adopted by reference in Section R315-265-1~~].

[~~Note:~~](1) The requirements of Sections R315-264-1032 through R315-264-1036 apply to process vents on hazardous waste recycling units previously exempt under Subsection R315-261-6(c)(1). Other exemptions under Section R315-261-4, and Subsection R35-264-1(g) are not affected by these requirements.

(d) The requirements of Subpart AA 40 CFR do not apply to the pharmaceutical manufacturing facility, commonly referred to as the Stonewall Plant, located at Route 340 South, Elkton, Virginia, [~~provided~~]if that facility is operated in compliance with the requirements contained in a permit issued pursuant to 40 CFR 52.2454. The requirements of [~~Supbart~~]Subpart AA 40 CFR shall apply to the facility upon termination of the permit issued pursuant to the 40 CFR 52.2454.

(e) The requirements of Sections R315-264-1030 through R315-264-1036 do not apply to the process vents at a facility [~~where~~]if the facility owner or operator certifies that [~~all~~]each of the process vents that would otherwise be subject to Sections R315-264-1030 through R315-264-1036 are equipped with and operating air emission controls in accordance with the process vent requirements of an applicable regulation codified under the Utah Air Conservation Act. The documentation of compliance under [~~regulations~~]rules codified under the Utah Air Conservation Act shall be kept with, or made readily available with, the facility operating record.

R315-264-1050. Air Emission Standards for Equipment Leaks -- Applicability.

(a) The [~~regulations~~]requirements in Sections R315-264-1050 through R315-264-1065 apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes, except as provided in Section R315-264-1.

(b) Except as provided in Subsection R315-264-1064(k), Sections R315-264-1050 through R315-264-1065 apply to equipment that contains or contacts hazardous wastes with organic concentrations of at least 10%[~~-percent~~] by weight that are managed in one of the [~~following~~]units listed in Subsections R315-264-1050(b)(1) through R315-264-1050(b)(3):

(1) A unit that is subject to the permitting requirements of Rule R315-270[~~,~~];; or

(2) A unit, including a hazardous waste recycling unit, that is not exempt from permitting under[~~-the provisions of~~] S[~~ubs~~]ection R315-262-17[~~34(a)~~], [~~i.e.~~]that is, a hazardous waste recycling unit that is not a ["]90-day["] tank or container, and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of Rule R315-270[~~,~~];; or

(3) A unit that is exempt from permitting under [~~the provisions of~~]Section R315-262-17, [~~i.e.~~]that is, a ["]90-day["] tank or container, and is not a recycling unit under [~~the provisions of~~]Section R315-261-6.

(c) For the owner or operator of a facility subject to Sections R315-264-1050 through R315-264-1065 and who received a final permit under RCRA [~~s~~]Section 3005 [~~prior to~~]before December 6, 1996, the requirements of Sections R315-264-1050 through R315-264-1065 shall be incorporated into the permit [~~when~~]if the permit is reissued in accordance with the requirements of Section R315-124-15 or reviewed in accordance with the requirements of Subsection R315-270-50(d). Until [~~such~~]the date when the owner or operator receives a final permit incorporating the requirements of Sections R315-264-1050 through R315-264-1065, the owner or operator is subject to the requirements of Sections[~~40 CFR~~] R315-265[~~-~~]-1050 through R315-265[~~-~~]-1064[~~, which are adopted by reference in Section R315-265-1~~].

(d) Each piece of equipment [~~to which~~]that Sections R315-264-1050 through R315-264-1065 applies to shall be marked in such a manner that it can be distinguished readily from other pieces of equipment.

(e) Equipment that is in vacuum service is excluded from the requirements of Sections R315-264-1052 through R315-264-1060 if it is identified as required in Subsection R315-264-1064(g)(5).

(f) Equipment that contains or contacts hazardous waste with an organic concentration of at least 10% [~~percent~~]by weight for less than 300 hours per calendar year is excluded from the requirements of Sections R315-264-1052 through R315-264-1060 if it is identified, as required in Subsection R315-264-1064(g)(6).

(g) The requirements of Subpart BB 40 CFR do not apply to the pharmaceutical manufacturing facility, commonly referred to as the Stonewall Plant, located at Route 340 South, Elkton, Virginia, [~~provided~~]if that facility is operated in compliance with the requirements contained in a permit issued pursuant to 40 CFR 52.2454. The requirements of Subpart BB 40 CFR shall apply to the facility upon termination of the permit issued pursuant to the 40 CFR 52.2454.

(h) Purged coatings and solvents from surface coating operations subject to the national emission standards for hazardous air pollutants (NESHAP) for the surface coating of automobiles and light-duty trucks at Subsection R307-214-2(61), which incorporates 40 CFR part 63 subpart IIII, are not subject to the requirements of Sections R315-264-1050 through R315-264-1065.

[~~Note:~~](1) The requirements of Sections R315-264-1052 through R315-264-1065 apply to equipment associated with hazardous waste recycling units previously exempt under Subsection R315-261-6(c)(1). Other exemptions under Section R315-261-4, and Subsection R315-264-1(g) are not affected by these requirements.

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Date of Last Change: 2025[~~January 17, 2023~~]
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Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R315-265**	**Filing ID: 56944**

Agency Information

1. Title catchline:	Environmental Quality, Waste Management and Radiation Control, Waste Management	
Building:	MASOB	
Street address:	195 N. 1950 W.	
City, state:	Salt Lake City, Utah	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, Utah 84114-4880	
Contact persons:		
Name:	**Phone:**	**Email:**
Tom Ball	385-454-5587	tball@utah.gov
Kari Lundeen	385-499-4923	klundeen@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R315-265. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
3. Purpose of the new rule or reason for the change:
The EPA made technical corrections that correct or clarify parts of the hazardous waste regulations. Examples of the types of corrections being made include correcting typographical errors, correcting incorrect or outdated citations, updating outdated and incorrect wording, and updating addresses.

The EPA made changes to regulations related to twelve hazardous waste import-export recovery and disposal operations used in hazardous waste export and import notices submitted to EPA by U.S. exporters and importers, and in movement documents that accompany export and import shipments.
These changes are being made in the Utah Hazardous Waste Rules because Utah is authorized to oversee the hazardous waste program in Utah and must have rules that are equivalent to the federal regulations.

4. Summary of the new rule or change:

To reduce the number of federal regulations that are incorporated by reference in Title R315 several sections of 40 CFR 265 that were incorporated by reference in other parts of Title R315 have been added to Rule R315-265. The sections added are: R315-265-300 through R315-265-310, R315-265-312 through R315-265-316, R315-265-340, R315-265-341, R315-265-345, R315-265-347, R315-265-351, R315-265-352, R315-265-440 through R315-265-445, R315-265-1050 through R315-265-1064, and R315-265-1400. Appropriate changes were made to the introductory paragraph of Section R315-265-1 to reflect these changes.
Codes contained in Subsection R315-265-12(a)(4)(ii) related to recovery operations are being amended so that they conform with regulations related to the Canadian import and export recovery disposal operations that Canada has promulgated.
The comment found at Subsection R315-265-71(c) is being deleted because it makes reference to Section R315-262-34 which was removed from the rules.
A citation to Section R315-266-507 is being added to Subsection R315-265-72(a)(3) to clarify rules regarding container residues are also found in that rule in addition to Subsection R315-261-7(b).
Additionally, the Division is correcting formatting and typographical errors discovered during the process of reviewing and amending the rule.

Fiscal Information

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

A) State budget:

It is not anticipated that the amendments to this rule will cause any cost or savings to the state budget because they do not add any new or remove any existing requirements from the rule.

B) Local governments:

It is not anticipated that the amendments to this rule will cause any cost or savings to local governments because they do not add any new or remove any existing requirements from the rule.

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

It is not anticipated that the amendments to this rule will cause any cost or savings to small businesses that must comply with the rule because they do not add any new or remove any existing requirements from the rule.

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

It is not anticipated that the amendments to this rule will cause any cost or savings to non-small businesses that must comply with the rule because they do not add any new or remove any existing requirements from the rule.

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 amendments to this rule will cause any cost or savings to persons other than small businesses, non-small businesses, state or local government entities that must comply with the rule because they do not add any new or remove any existing requirements from the rule.

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

Because the changes to this rule do not add any new or remove any existing requirements from the rule it is not anticipated that there will be any new compliance costs for any affected persons due to the changes.

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	**FY2025**	**FY2026**	**FY2027**
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	**FY2025**	**FY2026**	**FY2027**
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 19-6-105	Section 19-6-106	

Incorporations by Reference Information

7. Incorporations by Reference :	
A) This rule adds or updates the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	Title 40 – Protection of the Environment, Chapter I – Environmental Protection Agency, Subchapter I – Solid Wastes, Part 265 – Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities, Appendix V to Part 265 – Examples of Potentially Incompatible Waste.
Publisher	United States Federal Government
Issue Date	May 19, 1980
Issue or Version	October 11, 2024

B) This rule adds or updates the following title of materials incorporated by references:	
Official Title of Materials Incorporated (from title page)	Title 40 – Protection of the Environment, Chapter I – Environmental Protection Agency, Subchapter I – Solid Wastes, Part 265 – Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities, Subparts M, P, Q, R, EE, FF and Appendix I, III, IV and VI to Part 265.
Publisher	United States Federal Government
Issue Date	November 21, 2024

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:	12/31/2024

9. This rule change MAY become effective on:	01/13/2025
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Director	**Date:**	11/14/2024

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-265. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.
R315-265-1. Incorporation, General -- Purpose, Scope, and Applicability.

40 CFR 265.270 through 265.282, [~~265.300 through 265.316, 265.340 through 265.352,~~]265.370 through 265.383, 265.400 through 265.406, 265.430,[~~ 265.440 through 265.445, 265.1050 through 265.1064,~~] 265.1200 through 265.1202, 265.1300 through 265.1316 and Appendices I and III through IV and VI of 40 CFR 265, [~~2015~~]2024 edition[~~, as amended by 81 FR 85827~~], are incorporated by reference except that "director" is substituted for references to "Regional Administrator",["] and for references to "EPA" or "Environmental Protection Agency" except for references to "EPA identification number" and when EPA is used in reference to actions under Subsection R315-268-42(b) and in Subsection R315-265-71(a)(3).

(a) The purpose of Rule R315-265 is to establish minimum standards that define the acceptable management of hazardous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled.

(b) Except as provided in Subsection R315-265-1080(b), the standards of Rule R315-265, and of Sections R315-264-552, R315-264-553, and R315-264-554, apply to owners and operators of facilities that treat, store or dispose of hazardous waste who have fully complied with the requirements for interim status under Section 3005(e) of RCRA and Section R315-270-10 until either a permit is issued under Rule R315-270 or until applicable Rule R315-265 closure and post-closure responsibilities are fulfilled, and to those owners and operators of facilities in existence on November 19, 1980 who have failed to provide timely notification as required by Section 3010(a) of RCRA, failed to file Part A of the permit application as required by Subsections R315-270-10[-](e) and R315-270-10(g), or both. These standards apply to treatment, storage and disposal of hazardous waste at these facilities after the effective date of Title R315, except as specifically provided otherwise in Rule R315-265 or Rule R315-261.

[~~Comment:~~](1) As stated in Section 3005(a) of RCRA, after the effective date of regulations under that section, which are Rules R315-270 and R315-124, the treatment, storage and disposal of hazardous waste is prohibited except in accordance with a permit. Section 3005(e) of RCRA provides for the continued operation of an existing facility that meets certain conditions, until final administrative disposition of the owner's and operator's permit application is made.

(c) The requirements of Rule R315-265 do not apply to the following:

(1) A person disposing of hazardous waste by ocean disposal subject to a permit issued under the Marine Protection, Research, and Sanctuaries Act.

[~~Comment:~~](i) Rule R315-265 does apply to the treatment or storage of hazardous waste before it is loaded onto an ocean vessel for incineration or disposal at sea, as provided in Subsection R315-265-1(b).

(2) Reserved.

(3) The owner or operator of a POTW that treats, stores, or disposes of hazardous waste.

[~~Comment:~~](i) The owner or operator of a facility under Subsections R315-265-1(c)(1) through R315-265-1(c)(3) is subject to the requirements of Rule R315-264 to the extent they are included in a permit by rule granted to the owner or operator under 40 CFR 122, or are required by 40 CFR 144.14.

(4) Reserved.

(5) The owner or operator of a facility permitted under Rules R315-301 through R315-320 to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under Rule R315-265 by Section R315-262-14.

(6) The owner or operator of a facility managing recyclable materials described in Subsections R315-261-6(a)(2), R315-261-6(a)(3), and R315-261-6(a)(4), except to the extent they are referred to in Rule R315-15 or Sections R315-266-20 through R315-266-23, R315-266-70, R315-266-80, or R315-266-100 through R315-266-112.

(7) A generator accumulating waste on-site in compliance with applicable conditions for exemption in Sections R315-262-14 through R315-262-17 and Sections R315-262-200 through R315-262-216 and R315-262-230 through R315-262-233, except to the extent the requirements of Rule R315-265 are included in those sections.

(8) A farmer disposing of waste pesticides from the farmer's own use in compliance with Section R315-262-70.

(9) The owner or operator of a totally enclosed treatment facility, as defined in Section R315-260-10.

(10) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in Section R315-260-10, except that if the owner or operator is diluting hazardous ignitable (D001) wastes, other than the D001 High TOC Subcategory defined in

Section R315-268-40, Table Treatment Standards for Hazardous Wastes, or reactive (D003) waste, to remove the characteristic before land disposal, the owner or operator shall comply with the requirements set out in Subsection R315-265-17(b).

(11)(i) Except as provided in Subsection R315-265-1(c)(11)(ii), a person engaged in treatment or containment activities during immediate response to any of the following situations:

(A) a discharge of a hazardous waste;

(B) an imminent and substantial threat of a discharge of a hazardous waste; or

(C) a discharge of a material that, if discharged, becomes a hazardous waste.

(ii) An owner or operator of a facility otherwise regulated by this Rule R315-265 shall comply with the applicable requirements of Sections R315-265-30 through R315-265-37 and Sections R315-265-50 through R315-265-56.

(iii) Any person who is covered by Subsection R315-265-1(c)(11)(i) and who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to the applicable requirements of Rule R315-265 and Rule R315-124 for those activities.

(iv) In the case of an explosives or munitions emergency response, if a federal, state, tribal or local official acting within the scope of their official responsibilities, or an explosives or munitions emergency response specialist, determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters who do not have EPA identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit shall keep records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

(12) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of Section R315-262-30 at a transfer facility for a period of ten days or less.

(13) The addition of absorbent material to waste in a container, as defined in Section R315-260-10, or the addition of waste to the absorbent material in a container if these actions occur when waste is first placed in the containers[~~;~~], and Subsection R315-265-17(b) and Sections R315-265-171 and R315-265-172 are complied with.

(14) Universal waste handlers and universal waste transporters, as defined in Section R315-260-10, handling the wastes listed in Subsections R315-265-1(c)(14)[-](i) through R315-265-1(c)(14)(vi). These handlers are subject to regulation under Rule R315-273, if handling the following universal wastes:

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

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

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

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

(v) aerosol cans as described in [~~Subs~~]Section R315-273-6; and

(vi) antifreeze as described in [~~Subs~~]Section R315-273-7.

(15) Reserved

(16) Reverse distributors accumulating potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals, as defined in Section R315-266-500. Reverse distributors are subject to regulation under Sections R315-266-500 through R315-266-510 in lieu of Rule R315-265 for the accumulation of potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals.

(d) The following hazardous wastes [~~shall~~]may not be managed at facilities subject to regulation under Rule R315-265.

(1) EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, or F027 unless:

(i) the wastewater treatment sludge is generated in a surface impoundment as part of the plant's wastewater treatment system;

(ii) the waste is stored in tanks or containers;

(iii) the waste is stored or treated in waste piles that meet the requirements of Subsection R315-264-250(c) as well as other applicable requirements of Sections R315-265-250 through R315-265-260;

(iv) the waste is burned in incinerators that are certified pursuant to the standards and procedures in [~~40 CFR~~]Section R315-265[~~.~~]-352[~~, which is incorporated by reference~~]; or

(v) the waste is burned in facilities that thermally treat the waste in a device other than an incinerator and that are certified pursuant to the standards and procedures in 40 CFR 265.383, which is incorporated by reference.

(e) The requirements of Rule R315-265 apply to owners or operators of facilities that treat, store or dispose of hazardous waste referred to in Rule R315-268, and the Rule R315-268 standards are considered material conditions or requirements of the Rule R315-265 interim status standards.

R315-265-12. General Facility Standards -- Required Notices.

(a) The owner or operator of a facility that is arranging or has arranged to receive hazardous waste subject to Sections R315-262-80 through R315-262-84 from a foreign source shall submit the following required notices:

(1) As per Subsection R315-262-84(b), for imports where the competent authority of the country of export does not require the foreign exporter to submit to it a notification proposing export and [~~obtain~~]get consent from EPA and the competent authorities for the countries of transit, [~~such~~]the owner or operator of the facility, if acting as the importer, shall provide notification of the proposed transboundary movement in English to EPA using the allowable methods listed in Subsection R315-262-84(b)(1) at least 60 days before the first shipment is expected to depart the country of export. The notification may cover up to one year of shipments of wastes having similar physical and chemical characteristics, the [~~same~~]identical United Nations classification, the [~~same~~]identical RCRA waste codes and OECD waste codes, and being sent from the same foreign exporter.

(2) As per Subsection R315-262-84(d)(2)(xv), a copy of the movement document bearing [~~all~~]the required signatures within three [~~(3)~~]working days of receipt of the shipment to the foreign exporter[~~:~~], to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste respectively[~~:~~], and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original of the signed movement document shall be maintained at the facility for at least three [~~(3)~~]years. The owner or operator of a facility may satisfy this recordkeeping requirement by [~~retaining~~]keeping electronically submitted documents in the facility's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, [~~provided that~~]copies [~~are~~]shall be readily available for viewing and production if requested by any EPA or Utah inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system, for which the owner or operator of a facility bears no responsibility.

(3) As per Subsection R315-262-84(f)(4), if the facility has physical control of the waste and it must be sent to an alternate facility or returned to the country of export, [~~such~~]the owner or operator of the facility shall inform EPA, using the allowable methods listed in Subsection R315-262-84(b)(1) of the need to return or arrange alternate management of the shipment.

(4) As per Subsection R315-262-84(g), [~~such~~]the owner or operator shall:

(i) Send copies of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than 30[~~thirty~~] days after completing recovery or disposal on the waste in the shipment and no later than one calendar year following receipt of the waste, to the foreign exporter, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system.

(ii) If the facility performed any of recovery operations R12, R13, or RC[~~16~~]3, or disposal operations D13 through D15, [~~or DC17,~~]promptly send copies of the confirmation of recovery or disposal that it receives from the final recovery or disposal facility within one year of shipment delivery to the final recovery or disposal facility that performed one of recovery operations R1 through R11, or RC1[~~6~~], or one of disposal operations D1 through D12, or DC1[~~5~~] to DC[~~16~~]2, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The recovery and disposal operations in Subsection R315-265-12(a)(4)(ii) are defined in Section R315-262-81.

(b) Before transferring ownership or operation of a facility during its operating life, or of a disposal facility during the post-closure care period, the owner or operator shall notify the new owner or operator in writing of the requirements of Rule R315-265 and Rule R315-270. Also see Section R315-270-72.

[~~Comment:~~](i) An owner's or operator's failure to notify the new owner or operator of the requirements of Rule R315-265 in no way relieves the new owner or operator of [~~his~~]their obligation to comply with [~~all~~]the applicable requirements.

R315-265-71. Manifest System, Recordkeeping, and Reporting --Use of Manifest System.

(a)(1) If a facility receives hazardous waste accompanied by a manifest, the owner, operator or the owner or operator's agent shall sign and date the manifest as indicated in Subsection R315-265-71(a)(2) to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space.

(2) If the facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator, or the owner or operator's[~~:~~] agent shall:

(i) sign and date each copy of the manifest;

(ii) note any discrepancies, as defined in Subsection R315-265-72(a), on each copy of the manifest;

(iii) immediately give the transporter at least one copy of the manifest;

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

(v) paper manifest submission requirements are:

(A) Options for compliance on June 30, 2018. Beginning on June 30, 2018, send the top copy, Page 1, of any paper manifest and any paper continuation sheet to the e-Manifest system for data entry and processing, or in lieu of submitting the paper copy to EPA, the owner or operator may transmit to the EPA system an image file of Page 1 of the manifest and any continuation sheet, or both a data file and image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days of the date of delivery. Submissions of copies to the e-Manifest system shall be made at the mailing address or electronic mail or submission address specified at the e-Manifest program website's directory of services. Beginning on June 30, 2021, EPA will not accept mailed paper manifests from facilities for processing in e-Manifest.

(B) Options for compliance on June 30, 2021. Beginning on June 30, 2021, the requirement to submit the top copy, Page1, of the paper manifest and any paper continuation sheet to the e-Manifest system for data entry and processing may be met by the owner or operator only by transmitting to the EPA system an image file of Page 1 of the manifest and any continuation sheet, or by transmitting to the EPA system both a data file and the image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days of the date of delivery. Submissions of copies to the e-Manifest system shall be made to the electronic mail or submission address specified at the e-Manifest program website's directory of services; and

(vi) keep at the facility a copy of each manifest for at least three years from the date of delivery.

(3) The owner or operator of a facility that receives hazardous waste subject to Sections R315-262-80 through R315-265-84 from a foreign source shall:

(i) additionally list the relevant consent number from consent documentation supplied by EPA to the facility for each waste listed on the manifest, matched to the relevant list number for the waste from block 9b. If additional space is needed, the owner or operator should use a continuation sheet or sheets, EPA Form 8700-22A; and

(ii) send a copy of the manifest to EPA using the addresses listed in Subsection R315-262-82(e) within 30 days of delivery until the facility can submit a copy to the e-Manifest system per Subsection R315-265-71(a)(2)(v).

(b) If a facility receives, from a rail or water, bulk shipment, transporter, hazardous waste that is accompanied by a shipping paper containing the information required on the manifest, excluding the EPA identification numbers, generator's certification, and signatures, the owner or operator, or the owner or operator's[:] agent, shall:

(1) sign and date each copy of the manifest or shipping paper, if the manifest has not been received, to certify that the hazardous waste covered by the manifest or shipping paper was received;

(2) note any significant discrepancies, as defined in Subsection R315-265-72(a), in the manifest or shipping paper, if the manifest has not been received, on each copy of the manifest or shipping paper;

[~~Comment:~~](i) The director does not intend that the owner or operator of a facility whose procedures under Subsection R315-265-13(c) include waste analysis shall perform that analysis before signing the shipping paper and giving it to the transporter. Subsection R315-265-72(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.

(3) immediately give the rail or water, bulk shipment, transporter at least one copy of the manifest or shipping paper, if the manifest has not been received;

(4) within 30 days after the delivery, send a copy of the signed and dated manifest or a signed and dated copy of the shipping paper, if the manifest has not been received within 30 days after delivery, to the generator; and

[~~Comment:~~](i) Subsection R315-262-23(c) requires the generator to send three copies of the manifest to the facility when hazardous waste is sent by rail or water, bulk shipment.

(5) keep at the facility a copy of the manifest and shipping paper, if signed in lieu of the manifest when delivered, for at least three years from the date of delivery.

(c) When a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility shall comply with the requirements of Rule R315-262. Sections R315-262-15, R315-262-16, and R315-262-17 are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, Sections R315-262-15, R315-262-16, and R315-262-17 only apply to owners or operators who are shipping hazardous waste that they generated at that facility or operating as a large quantity generator consolidating hazardous waste from very small quantity generators under Subsection R315-262-17(f).

[~~Comment: Section R315-262-34 are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, Section R315-262-34 only apply to owners or operators who are shipping hazardous waste that they generated at that facility.~~]

(d) As per Subsection R315-262-84(d)(2)(xv), within three working days of the receipt of a shipment subject to Sections R315-262-80 through R315-262-84, the owner or operator of a facility shall provide a copy of the movement document bearing the required signatures to the foreign exporter[~~:~~], to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste respectively[~~:~~], and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original copy of the movement document shall be maintained at the facility for at least three years from the date of signature. The owner or operator of a facility may satisfy this recordkeeping requirement by [~~retaining~~]keeping electronically submitted documents in the facility's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, if the copies are readily available for viewing and production if requested by any EPA or Utah inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system, for which the owner or operator of a facility bears no responsibility.

(e) A facility shall determine whether the consignment state for a shipment regulates any additional wastes, beyond those regulated federally, as hazardous wastes under its state hazardous waste program. Facilities shall also determine whether the consignment state or generator state requires the facility to submit any copies of the manifest to these states.

(f) Legal equivalence to paper manifests. Electronic manifests that are [~~gotten, completed~~]procured, finished, and transmitted in accordance with Subsection R315-262-20(a)(3), and used in accordance with this Section R315-265-71 in lieu of the paper manifest form are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy any requirement in Title R315 to get, [~~complete~~]finish, sign, provide, use, or [~~retain~~]keep a manifest.

(1) Any requirement in [~~these rules~~]Rules R315-260 through R315-266, R315-268, R315-270, and R315-273 for the owner or operator of a facility to sign a manifest or manifest certification by hand, or to get a handwritten signature, is satisfied by signing with or getting a valid and enforceable electronic signature within the meaning of [~~40 CFR~~]Section R315-262[~~-~~]-25.

(2) Any requirement in Title R315 to give, provide, send, forward, or to return to another person a copy of the manifest is satisfied [~~when~~]if a copy of an electronic manifest is transmitted to the other person.

(3) Any requirement in Title R315 for a manifest to accompany a hazardous waste shipment is satisfied [~~when~~]if a copy of an electronic manifest is accessible during transportation and forwarded to the person who is scheduled to receive delivery of the hazardous waste shipment.

(4) Any requirement in Title R315 for an owner or operator to keep or [~~retain~~]keep a copy of each manifest is satisfied by the retention of the facility's electronic manifest copies in its account on the e-Manifest system, if the copies are readily available for viewing and production if requested by any EPA or Utah inspector.

(5) No owner or operator may be held liable for the inability to produce an electronic manifest for inspection under this Section R315-265-71 if the owner or operator can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical difficulty with the EPA system, for which the owner or operator bears no responsibility.

(g) An owner or operator may participate in the electronic manifest system either by accessing the electronic manifest system from the owner's or operator's electronic equipment, or by accessing the electronic manifest system from portable equipment brought to the owner's or operator's site by the transporter who delivers the waste shipment to the facility.

(h) Special procedures applicable to replacement manifests. If a facility receives hazardous waste that is accompanied by a paper replacement manifest for a manifest that was originated electronically, the following procedures apply to the delivery of the hazardous waste by the final transporter:

(1) Upon delivery of the hazardous waste to the designated facility, the owner or operator shall sign and date each copy of the paper replacement manifest by hand in Item 20, Designated Facility Certification of Receipt, and note any discrepancies in Item 18, Discrepancy Indication Space, of the replacement manifest.

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

(3) Within 30 days of delivery of the hazardous waste to the designated facility, the owner or operator of the facility shall send one signed and dated copy of the paper replacement manifest to the generator, and send an additional signed and dated copy of the paper replacement manifest to the EPA e-Manifest system.

(4) The owner or operator of the facility shall [~~retain~~]keep at the facility one copy of the paper replacement manifest for at least three years from the date of delivery.

(i) Special procedures applicable to electronic signature methods undergoing tests. If an owner or operator using an electronic manifest signs this manifest electronically using an electronic signature method that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the owner or operator shall also sign with an ink signature the facility's certification of receipt or discrepancies on the printed copy of the manifest provided by the transporter. Upon executing its ink signature on this printed copy, the owner or operator shall [~~retain~~]keep this original copy among its records for at least three years from the date of delivery of the waste.

(j) Imposition of user fee for electronic manifest use.

(1) As prescribed in 40 CFR 265.1311, and determined in 40 CFR 265.1312, which are incorporated by reference, an owner or operator who is a user of the electronic manifest system shall be assessed a user fee by EPA for the submission and processing of each electronic and paper manifest. EPA shall update the schedule of user fees and publish them to the user community, as provided in 40 CFR 265.1313, which is incorporated by reference.

(2) An owner or operator subject to user fees under Section R315-265-71 shall make user fee payments in accordance with the requirements of 40 CFR 265.1314, subject to the informal fee dispute resolution process of 40 CFR 265.1316, and subject to the sanctions for delinquent payments under 40 CFR 265.1315, which are incorporated by reference.

(k) Electronic manifest signatures.

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

(l) Post-receipt manifest data corrections. After facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person, for example, waste handler, shown on the manifest.

(1) Interested persons shall make each correction to manifest data by electronic submission, either by directly entering corrected data to the web based service provided in e-Manifest for corrections, or by an upload of a data file containing data corrections relating to one or more previously submitted manifests.

(2) Each correction submission shall include the following information:

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

(ii) the Item Numbers of the original manifest that is the subject of the submitted corrections; and

(iii) for each Item Number with corrected data, the data previously entered and the corresponding data as corrected by the correction submission.

(3) Each correction submission shall include a statement that the person submitting the corrections certifies that to the best of their knowledge or belief, the corrections that are included in the submission will cause the information reported about the previously received hazardous wastes to be true, accurate, and complete.

(i) The certification statement shall be executed with a valid electronic signature; and

(ii) A batch upload of data corrections may be submitted under one certification statement.

(4) Upon receipt by the system of any correction submission, other interested persons shown on the manifest will be provided electronic notice of the submitter's corrections.

(5) Other interested persons shown on the manifest may respond to the submitter's corrections with comments to the submitter, or by submitting another correction to the system, certified by the respondent as specified in Subsection R315-265-71(l)(3), and with notice of the corrections to other interested persons shown on the manifest.

R315-265-72. Manifest System, Recordkeeping, and Reporting -- Manifest Discrepancies.

(a) Manifest discrepancies are:

(1) [~~S~~]significant differences, as defined by Subsection R315-265-72(b), between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity and type of hazardous waste a facility actually receives;

(2) [~~R~~]rejected wastes, which may be a full or partial shipment of hazardous waste that the TSDF cannot accept; or

(3) [~~C~~]container residues, which are residues that exceed the quantity limits for "empty" containers set forth in Subsection R315-261-7(b) and Section R315-266-507.

(b) Significant differences in quantity are: For bulk waste, variations greater than 10% [~~percent~~]in weight; for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. Significant differences in type are obvious differences [~~which~~]that can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper.

(c) Upon discovering a significant difference in quantity or type, the owner or operator shall [~~attempt~~]try to reconcile the discrepancy with the waste generator or transporter, for example, with telephone conversations. If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator shall immediately submit to the [~~D~~]director a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

(d)(1) Upon rejecting waste or identifying a container residue that exceeds the quantity limits for "empty" containers set forth in Subsection R315-261-7(b), the facility shall consult with the generator [~~prior to~~]before forwarding the waste to another facility that can manage the waste. If it is impossible to locate an alternative facility that can receive the waste, the facility may return the rejected waste or residue to the generator. The facility shall send the waste to the alternative facility or to the generator within 60 days of the rejection or the container residue identification.

(2) While the facility is making arrangements for forwarding rejected wastes or residues to another facility under this Section R315-265-72, it shall ensure that either the delivering transporter [~~retains~~]keeps custody of the waste, or the facility shall provide for secure, temporary custody of the waste, pending delivery of the waste to the first transporter designated on the manifest prepared under Subsection[~~s~~] R315-265-72(e) or R315-265-72(f).

(e) Except as provided in Subsection R315-265-72(e)(7), for full or partial load rejections and residues that are to be sent off-site to an alternate facility, the facility [~~is required to~~]shall prepare a new manifest in accordance with Subsection R315-262-20(a) and the following instructions:

(1) Write the generator's U.S. EPA ID number in Item 1 of the new manifest. Write the generator's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the generator's site address, then write the generator's site address in the designated space in Item 5.

(2) Write the name of the alternate designated facility and the facility's U.S. EPA ID number in the designated facility block, Item 8, of the new manifest.

(3) Copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and [~~indicate~~]state that the shipment is a residue or rejected waste from the previous shipment.

(4) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest, Item 18a.

(5) Write the DOT description for the rejected load or the residue in Item 9, U.S. DOT Description, of the new manifest and write the container types, quantity, and volume[~~(~~]s[~~)~~] of waste.

(6) Sign the Generator's/Offeror's Certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation, and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.

(7) For full load rejections that are made while the transporter remains present at the facility, the facility may forward the rejected shipment to the alternate facility by completing Item 18b of the original manifest and supplying the information on the next destination facility in the Alternate Facility space. The facility shall [~~retain~~]keep a copy of this manifest for its records, and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility shall use a new manifest and comply with Subsections R315-265-72-(e)(1), R315-265-72(e)(2), R315-265-72(e)(3), R315-265-72(e)(4), R315-265-72(e)(5), and R315-265-72(e)(6).

(f) Except as provided in Subsection R315-265-72(f)(7), for rejected wastes and residues that must be sent back to the generator, the facility [~~is required to~~]shall prepare a new manifest in accordance with Subsection R315-262-20(a) and the following instructions:

(1[~~-~~]) Write the facility's U.S. EPA ID number in Item 1 of the new manifest. Write the facility's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the facility's site address, then write the facility's site address in the designated space for Item 5 of the new manifest.

(2) Write the name of the initial generator and the generator's U.S. EPA ID number in the designated facility block, Item 8, of the new manifest.

(3) Copy the manifest tracking number found in Item 4 of the old manifest to the Special Handling and Additional Information Block of the new manifest, and [~~indicate~~]state that the shipment is a residue or rejected waste from the previous shipment.

(4) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the Discrepancy Block of the old manifest, Item 18a.

(5) Write the DOT description for the rejected load or the residue in Item 9, U.S. DOT Description, of the new manifest and write the container types, quantity, and volumes of waste.

(6) Sign the Generator's/Offeror's Certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation[~~,~~].

(7) For full load rejections that are made while the transporter remains at the facility, the facility may return the shipment to the generator with the original manifest by completing Item 18a and 18b of the manifest and supplying the generator's information in the Alternate Facility space. The facility shall [~~retain~~]keep a copy for its records and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility shall use a new manifest and comply with Subsections R315-265-72(f)(1), R315-265-72(f)(2), R315-265-72(f)(3), R315-265-72(f)(4), R315-265-72(f)(5), R315-265-72(f)(6), and R315-265-72(f)(8).

(8) For full or partial load rejections and container residues contained in non-empty containers that are returned to the generator, the facility shall also comply with the exception reporting requirements in Subsection R315-262-42(a).

(g) If a facility rejects a waste or identifies a container residue that exceeds the quantity limits for "empty" containers set forth in Subsection R315-261-7(b) after it has signed, dated, and returned a copy of the manifest to the delivering transporter or to the generator, the facility shall amend its copy of the manifest to [~~indicate~~]show the rejected wastes or residues in the discrepancy space of the amended manifest. The facility shall also copy the manifest tracking number from Item 4 of the new manifest to the discrepancy space of the amended manifest[~~,~~] and shall re-sign and date the manifest to certify to the information as amended. The facility shall [~~retain~~]keep the amended manifest for at least three years from the date of amendment, and shall within 30 days, send a copy of the amended manifest to the transporter and generator that received copies [~~prior to~~]before their being amended.

R315-265-300. Landfills -- Applicability.

Sections R315-265-300 through R315-265-316 apply to owners and operators of facilities that dispose of hazardous waste in landfills, except as Section R315-265-1 provides otherwise. A waste pile used as a disposal facility is a landfill and is governed by Sections R315-265-300 through R315-265-316.

R315-265-301. Landfills -- Design and Operating Requirements.

(a) The owner or operator of each new landfill unit, each lateral expansion of a landfill unit, and each replacement of an existing landfill unit shall install two or more liners and a leachate collection and removal system above and between the liners, and operate the leachate collection and removal system, in accordance with Subsection R315-264-301(c), unless exempted under Subsection R315-264.301(d), R315-264-301(e), or R315-264-301(f).

(b) The owner or operator of each unit referred to in Subsection R315-265-301(a) shall notify the director at least 60 days before receiving waste. The owner or operator of each facility submitting notice shall file a part B application within six months of the receipt of the notice.

(c) The owner or operator of any replacement landfill unit is exempt from Subsection R315-265-301(a) if:

(1) the existing unit was constructed in compliance with the design standards of Sections 3004(o)(1)(A)(i) and 3004(o)(5) of the Resource Conservation and Recovery Act; and

(2) there is no reason to believe that the liner is not functioning as designed.

(d) The double liner requirement set forth in Subsection R315-265-301(a) may be waived by the director for any monofill, if:

(1) the monofill contains only hazardous wastes from foundry furnace emission controls or metal casting molding sand, and the wastes do not contain constituents that would make the wastes hazardous for reasons other than the Toxicity Characteristic in Section R315-261-24, with EPA Hazardous Waste Numbers D004 through D017; and

(2)(i)(A) the monofill has at least one liner for which there is no evidence that the liner is leaking;

(B) the monofill is located more than one-quarter mile from an "underground source of drinking water", as that term is defined in Section R315-270-2; and

(C) the monofill is in compliance with generally applicable ground-water monitoring requirements for facilities with permits under RCRA Section 3005(c); or

(ii) the owner or operator demonstrates that the monofill is located, designed and operated so as to assure that there will be no migration of any hazardous constituent into ground water or surface water at any future time.

(e) In the case of any unit that has a liner and leachate collection system that has been installed pursuant to the requirements of Subsection R315-265-301(a) and in good faith compliance with Subsection R315-265-301(a) and with guidance documents governing liners and leachate collection systems under Subsection R315-265-301(a), no liner or leachate collection system that is different from the liner or leachate collection system that was installed pursuant to Subsection R315-265-301(a) will be required for the unit by the director when issuing the first permit to the facility, except that the director will not be precluded from requiring installation of a new liner if the director has reason to believe that any liner installed pursuant to the requirements of Subsection R315-265-301(a) is leaking.

(f) The owner or operator shall design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portion of the landfill during peak discharge from at least a 25-year storm.

(g) The owner or operator shall design, construct, operate and maintain a run-off management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm.

(h) Collection and holding facilities such as tanks or basins associated with run-on and run-off control systems shall be emptied or otherwise managed expeditiously after storms to maintain design capacity of the system.

(i) The owner or operator of a landfill containing hazardous waste that is subject to dispersal by wind shall cover or otherwise manage the landfill so that wind dispersal of the hazardous waste is controlled.

(j) As required by Section R315-265-13, the waste analysis plan shall include analyses needed to comply with Sections R315-265-312, R315-265-313, and R315-265-314. As required by Section R315-265-73, the owner or operator shall place the results of these analyses in the operating record of the facility.

R315-265-302. Landfills -- Action Leakage Rate.

(a) The owner or operator of landfill units subject to Subsection R315-265-301(a) shall submit a proposed action leakage rate to the director when submitting the notice required under Subsection R315-265-301(b). Within 60 days of receipt of the notification, the director will:

(1) establish an action leakage rate, either as proposed by the owner or operator or modified using the criteria in this section; or

(2) extend the review period for up to 30 days.

(3) If no action is taken by the director before the original 60 or extended 90 day review periods, the action leakage rate will be approved as proposed by the owner or operator.

(b) The director shall approve an action leakage rate for land fill units subject to Subsection R315-265-301(a). The action leakage rate is the maximum design flow rate that the leak detection system (LDS) can remove without the fluid head on the bottom liner exceeding one foot. The action leakage rate shall include an adequate safety margin to allow for uncertainties in the design, such as, slope, hydraulic conductivity, and thickness of drainage material, construction, operation, and location of the LDS, waste and leachate characteristics, likelihood and amounts of other sources of liquids in the LDS, and proposed response actions. for example, the action leakage rate shall consider decreases in the flow capacity of the system over time resulting from siltation and clogging, rib layover and creep of synthetic components of the system, overburden pressures.

(c) To determine if the action leakage rate has been exceeded, the owner or operator shall convert the weekly or monthly flow rate from the monitoring data obtained in accordance with Section R315-265-304 to an average daily flow rate, gallons per acre per day, for each sump. Unless the director approves a different calculation, the average daily flow rate for each sump shall be calculated weekly during the active life and closure period, and monthly during the post-closure care period if monthly monitoring is required under Subsection R315-265-304(b).

R315-265-303. Landfills -- Response Actions.

(a) The owner or operator of landfill units subject to Subsection R315-265-301(a) shall develop and keep on site until closure of the facility a response action plan. The response action plan shall set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan shall describe the actions specified in Subsection R315-265-303(b).

(b) If the flow rate into the leak detection system exceeds the action leakage rate for any sump, the owner or operator shall:

(1) notify the director in writing of the exceedance within seven days of the determination;

(2) submit a preliminary written assessment to the director within 14 days of the determination, as to the amount of liquids, likely sources of liquids, possible location, size, and cause of any leaks, and short-term actions taken and planned;

(3) determine to the extent practicable the location, size, and cause of any leak;

(4) determine whether waste receipt should stop or be curtailed, whether any waste should be removed from the unit for inspection, repairs, or controls, and whether or not the unit should be closed;

(5) determine any other short-term and longer-term actions to be taken to mitigate or stop any leaks; and

(6) within 30 days after the notification that the action leakage rate has been exceeded, submit to the director the results of the analyses specified in Subsections R315-265-303(b)(3), R315-265-303(b)(4), and R315-265-303(b)(5), the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the leak detection system exceeds the action leakage rate, the owner or operator shall submit to the director a report summarizing the results of any remedial actions taken and actions planned.

(c) To make the leak or remediation determinations or both in Subsections R315-265-303(b)(3), R315-265-303(b)(4), and R315-265-303(b)(5), the owner or operator shall:

(1)(i) assess the source of liquids and amounts of liquids by source;

(ii) conduct a fingerprint, hazardous constituent, or other analyses of the liquids in the leak detection system to identify the source of liquids and possible location of any leaks, and the hazard and mobility of the liquid; and

(iii) assess the seriousness of any leaks in terms of potential for escaping into the environment; or

(2) document why the assessments are not needed.

R315-265-304. Landfills -- Monitoring and Inspection.

(a) An owner or operator required to have a leak detection system under Subsection R315-265-301(a) shall record the amount of liquids removed from each leak detection system sump at least once each week during the active life and closure period.

(b) After the final cover is installed, the amount of liquids removed from each leak detection system sump shall be recorded at least monthly. If the liquid level in the sump stays below the pump operating level for two consecutive months, the amount of liquids in the sumps shall be recorded at least quarterly. If the liquid level in the sump stays below the pump operating level for two consecutive quarters, the amount of liquids in the sumps shall be recorded at least semi-annually. If at any time during the post-closure care period the pump operating level is exceeded at units on quarterly or semi-annual recording schedules, the owner or operator shall return to monthly recording of amounts of liquids removed from each sump until the liquid level again stays below the pump operating level for two consecutive months.

(c) "Pump operating level" is a liquid level proposed by the owner or operator and approved by the director based on pump activation level, sump dimensions, and level that avoids backup into the drainage layer and minimizes head in the sump. The timing for submission and approval of the proposed "pump operating level" will be in accordance with Subsection R315-265-302(a).

R315-265-309. Landfills -- Surveying and Recordkeeping.

The owner or operator of a landfill shall maintain the following items in the operating record required by Section R315-265-73:

(a) On a map, the exact location and dimensions, including depth, of each cell with respect to permanently surveyed benchmarks; and

(b) The contents of each cell and the approximate location of each hazardous waste type within each cell.

R315-265-310. Landfills -- Closure and Post-Closure Care.

(a) At final closure of the landfill or upon closure of any cell, the owner or operator shall cover the landfill or cell with a final cover designed and constructed to:

(1) provide long-term minimization of migration of liquids through the closed landfill;

(2) function with minimum maintenance;

(3) promote drainage and minimize erosion or abrasion of the cover;

(4) accommodate settling and subsidence so that the cover's integrity is maintained; and

(5) have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.

(b) After final closure, the owner or operator shall comply with the post-closure requirements contained in Sections R315-265-117 through R315-265-120 including maintenance and monitoring throughout the post-closure care period. The owner or operator shall:

(1) maintain the integrity and effectiveness of the final cover, including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events;

(2) maintain and monitor the leak detection system in accordance with Subsections R315-264-301(c)(3)(iv) and R315-264-301(c)(4) and Subsection R315-265-304(b), and comply with any other applicable leak detection system requirements of Rule R315-265;

(3) maintain and monitor the ground-water monitoring system and comply with any other applicable requirements of Sections R315-265-90 through R315-265-94;

(4) prevent run-on and run-off from eroding or otherwise damaging the final cover; and

(5) protect and maintain surveyed benchmarks used in complying with Section R315-265-309.

R315-265-312. Landfills -- Special Requirements for Ignitable or Reactive Waste.

(a) Except as provided in Subsection R315-265-312(b), and in Section R315-265-316, ignitable or reactive waste may not be placed in a landfill, unless the waste and landfill meet the applicable requirements of Rule R315-268, and:

(1) the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under Section R315-261-21 or R315-261-23; and

(2) Subsection R315-265-17(b) is complied with.

(b) Except for prohibited wastes that remain subject to treatment standards in Sections R315-268-40 through R315-268-49, ignitable wastes in containers may be landfilled without meeting the requirements of Subsection R315-265-312(a), if the wastes are disposed of in a way that they are protected from any material or conditions that may cause them to ignite. At a minimum, ignitable wastes shall be:

(1) disposed of in non-leaking containers that are carefully handled and placed so as to avoid heat, sparks, rupture, or any other condition that might cause ignition of the wastes;

(2) shall be covered daily with soil or other non-combustible material to minimize the potential for ignition of the wastes; and

(3) may not be disposed of in cells that contain or will contain other wastes that may generate heat sufficient to cause ignition of the waste.

R315-265-313. Landfills -- Special Requirements for Incompatible Wastes.

Incompatible wastes, or incompatible wastes and materials, see appendix V for examples, may not be placed in a landfill cell together, unless Subsection R315-265-17(b) is complied with.

R315-265-314. Landfills -- Special Requirements for Bulk and Containerized Liquids.

(a) The placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing free liquids, whether or not sorbents have been added, in any landfill is prohibited.

(b) Containers holding free liquids may not be placed in a landfill unless:

(1) the free-standing liquid;

(i) has been removed by decanting, or other methods;

(ii) has been mixed with sorbent or solidified so that free-standing liquid is no longer observed; or

(iii) had been otherwise eliminated; or

(2) the container is very small, such as an ampule; or

(3) the container is designed to hold free liquids for use other than storage, such as a battery or capacitor; or

(4) the container is a lab pack as defined in Section R315-265-316 and is disposed of in accordance with Section R315-265-316.

(c) To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following test shall be used: Method 9095B, Paint Filter Liquids Test, as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846, as incorporated by reference in Section R315-260-11.

(d) The date for compliance with Subsection R315-265-314(a) is November 19, 1981. The date for compliance with Subsection R315-265-314(c) is March 22, 1982.

(e) Sorbents used to treat free liquids to be disposed of in landfills shall be nonbiodegradable. Nonbiodegradable sorbents are: materials listed or described in Subsection R315-265-314(e)(1), materials that pass one of the tests in Subsection R315-265-314(e)(2); or materials that are determined by the director to be nonbiodegradable through the Rule R315-260 petition process.

(1) Nonbiodegradable sorbents include:

(i) inorganic minerals, other inorganic materials, and elemental carbon such as aluminosilicates, clays, smectites, Fuller's earth, bentonite, calcium bentonite, montmorillonite, calcined montmorillonite, kaolinite, micas such as illite, vermiculites, zeolites; calcium carbonate, organic free limestone, oxides or hydroxides, alumina, lime, silica, sand, diatomaceous earth, perlite, volcanic glass; expanded volcanic rock, volcanic ash, cement kiln dust, fly ash, rice hull ash, activated charcoal or activated carbon; or

(ii) high molecular weight synthetic polymers such as polyethylene, high density polyethylene (HDPE), polypropylene, polystyrene, polyurethane, polyacrylate, polynorborene, polyisobutylene, ground synthetic rubber, cross-linked allylstyrene and tertiary butyl copolymers. This does not include polymers derived from biological material or polymers specifically designed to be degradable; or

(iii) mixtures of these nonbiodegradable materials.

(2) Tests for nonbiodegradable sorbents.

(i) The sorbent material is determined to be nonbiodegradable under ASTM Method G21-70, 1984a,---Standard Practice for Determining Resistance of Synthetic Polymer Materials to Fungi; or

(ii) The sorbent material is determined to be nonbiodegradable under ASTM Method G22-76, 1984b,---Standard Practice for Determining Resistance of Plastics to Bacteria; or

(iii) The sorbent material is determined to be nonbiodegradable under OECD test 301B: (CO2 Evolution (Modified Sturm Test)).

(f) The placement of any liquid that is not a hazardous waste in a landfill is prohibited unless the owner or operator of the landfill demonstrates to the director, or the director determines that:

(1) the only reasonably available alternative to the placement in the landfill is placement in a landfill or unlined surface impoundment, whether or not permitted or operating under interim status, which contains, or may reasonably be anticipated to contain, hazardous waste; and

(2) placement in the owner or operator's landfill will not present a risk of contamination of any "underground source of drinking water", as that term is defined in Section R315-270-2.

R315-265-315. Landfills -- Special Requirements for Containers.

Unless they are very small, such as an ampule, containers shall be either:

(a) at least 90% full when placed in the landfill; or

(b) crushed, shredded, or similarly reduced in volume to the maximum practical extent before burial in the landfill.

R315-265-316. Landfills -- Disposal of Small Containers of Hazardous Waste in Overpacked Drums, Lab Packs.

Small containers of hazardous waste in overpacked drums, lab packs, may be placed in a landfill if the following requirements are met:

(a) Hazardous waste shall be packaged in non-leaking inside containers. The inside containers shall be of a design and constructed of a material that will not react dangerously with, be decomposed by, or be ignited by the waste held therein. Inside containers shall be tightly and securely sealed. The inside containers shall be of the size and type specified in the Department of Transportation (DOT) hazardous materials regulations, 49 CFR parts 173, 178 and 179, if those regulations specify a particular inside container for the waste.

(b) The inside containers shall be overpacked in an open head DOT-specification metal shipping container, 49 CFR parts 178 and 179, of no more than 416-liter, 110 gallon, capacity and surrounded by, at a minimum, a sufficient quantity of sorbent material, determined to be nonbiodegradable in accordance with Subsection R315-265-314(e), to completely sorb the liquid contents of the inside containers. The metal outer container shall be full after it has been packed with inside containers and sorbent material.

(c) The sorbent material used may not be capable of reacting dangerously with, being decomposed by, or being ignited by the contents of the inside containers in accordance with Subsection R315-265-17(b).

(d) Incompatible wastes, as defined in Section R315-260-10, may not be placed in an outside container together.

(e) Reactive waste, other than cyanide- or sulfide-bearing waste as defined in Subsection R315-261-23(a)(5), shall be treated or made non-reactive before packaging in accordance with Subsections R315-265-316(a) through R315-265-316(d). Cyanide- and sulfide-bearing reactive waste may be packaged in accordance with Subsections R315-265-316(a) through R315-265-316(d) without first being treated or made non-reactive.

(f) This disposal is in compliance with the requirements of Rule R315-268. Persons who incinerate lab packs according to the requirements in Subsection R315-268-42(c)(1) may use fiber drums in place of metal outer containers. Fiber drums shall meet the DOT specifications in 49 CFR 173.12 and be overpacked according to the requirements in Subsection R315-265-316(b).

R315-265-340. Incinerators -- Applicability.

(a) Sections R315-265-340 through R315-265-352 apply to owners and operators of hazardous waste incinerators, as defined in Subsection R315-260-10(c)(71), except as Section R315-265-1 provides otherwise.

(b) Integration of MACT standards.

(1) Except as provided by Subsections R315-265-340(b)(2) and R315-265-340(b)(3), the standards of Rule R315-265 no longer apply if an owner or operator demonstrates compliance with the maximum achievable control technology (MACT) requirements of 40 CFR part 63, subpart EEE, by conducting a comprehensive performance test and submitting to the director a Notification of Compliance in accordance with 40 CFR 63.1207(j) and 40 CFR 63.1210(d) documenting compliance with the requirements of 40 CFR part 63, subpart EEE.

(2) The MACT standards do not replace the closure requirements of Section R315-264-351 or the applicable requirements of Sections R315-265-1 through R315-265-150, R315-265-1050 through R315-265-1064, and R315-265-1080 through R315-265-1090.

(3) Section R315-265-345 generally prohibiting burning of hazardous waste during startup and shutdown remains in effect if the owner or operator elects to comply with Subsection R315-270-235(b)(1)(i) to minimize emissions of toxic compounds from startup and shutdown.

(c) Owners and operators of incinerators burning hazardous waste are exempt from the requirements of Sections R315-265-340 through R315-265-352, except Section R315-265-351, Closure, if the owner or operator has documented, in writing, that the waste would not reasonably be expected to contain any of the hazardous constituents listed in Section R315-261-1092, which incorporates Appendix VIII to 40 CFR Part 261 by reference, and the documentation is kept at the facility, if the waste to be burned is:

(1) listed as a hazardous waste in Sections R315-261-30 through R315-261-35 solely because it is ignitable, Hazard Code I, corrosive, Hazard Code C, or both; or

(2) listed as a hazardous waste in Sections R315-261-30 through R315-261-35 solely because it is reactive, Hazard Code R, for characteristics other than those listed in Subsections R315-261-23(a)(4) and R315-261-23(a)(5), and will not be burned if other hazardous wastes are present in the combustion zone; or

(3) a hazardous waste solely because it has the characteristic of ignitability, corrosivity, or both, as determined by the tests for characteristics of hazardous wastes under Sections R315-261-20 through R315-261-24; or

(4) a hazardous waste solely because it has the reactivity characteristics described by Subsection R315-261-23(a)(1), R315-261-23(a)(2), R315-261-23(a)(3), R315-261-23(a)(6), R315-261-23(a)(7), or R315-261-23(a)(8), and will not be burned if other hazardous wastes are present in the combustion zone.

R315-265-341. Incinerators -- Waste Analysis.

In addition to the waste analyses required by Section R315-265-13, the owner or operator shall sufficiently analyze any waste that has not previously burned in the owner or operator's incinerator to enable the owner or operator to establish steady state, normal, operating conditions, including waste and auxiliary fuel feed and air flow, and to determine the type of pollutants that might be emitted. At a minimum, the analysis shall determine:

(a) the heating value of the waste;

(b) the halogen content and sulfur content in the waste; and

(c) the concentrations in the waste of lead and mercury, unless the owner or operator has written, documented data that show that the element is not present.

(d) As required by Section R315-265-73, the owner or operator shall place the results from each waste analysis, or the documented information, in the operating record of the facility.

R315-265-345. Incinerators -- General Operating Requirements.

During startup and shutdown of an incinerator, the owner or operator may not feed hazardous waste unless the incinerator is at steady state, normal, conditions of operation, including steady state operating temperature and air flow.

R315-265-347. Incinerators -- Monitoring and Inspections.

The owner or operator shall conduct, as a minimum, the following monitoring and inspections when incinerating hazardous waste:

(a) Existing instruments that relate to combustion and emission control shall be monitored at least every 15 minutes. Appropriate corrections to maintain steady state combustion conditions shall be made immediately either automatically or by the operator. Instruments that relate to combustion and emission control would normally include those measuring waste feed, auxiliary fuel feed, air flow, incinerator temperature, scrubber flow, scrubber pH, and relevant level controls.

(b) The complete incinerator and associated equipment, for example pumps, valves, conveyors, pipes, shall be inspected at least daily for leaks, spills, and fugitive emissions, and the emergency shutdown controls and system alarms shall be checked to assure proper operation.

R315-265-351. Incinerators -- Closure.

(a) At closure, the owner or operator shall remove the hazardous waste and hazardous waste residues, including ash, scrubber waters, and scrubber sludges, from the incinerator.

(b) At closure, as throughout the operating period, unless the owner or operator can demonstrate, in accordance with Subsection R315-261-3(d), that the residue removed from the owner or operator's incinerator is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and shall manage it in accordance with the applicable requirements of Rules R315-262 through R315-266.

R315-265-352. Incinerators -- Interim Status Incinerators Burning Particular Hazardous Wastes.

(a) Owners or operators of incinerators subject to Sections R315-265-340 through R315-265-352 may burn EPA Hazardous Wastes FO20, FO21, FO22, FO23, FO26, or FO27 if they receive a certification from the director that they can meet the performance standards of Sections R315-264-340 through R315-265-351 when these wastes are burned.

(b) The following standards and procedures shall be used in determining whether to certify an incinerator:

(1) The owner or operator shall submit an application to the director containing applicable information in Sections R315-270-19 and R315-270-62 demonstrating that the incinerator can meet the performance standards in Sections R315-264-340 through R315-265-351 when these wastes are burned.

(2) The director shall issue a tentative decision as to whether the incinerator can meet the performance standards in Sections R315-264-340 through R315-265-351. Notification of this tentative decision shall be provided by newspaper advertisement and radio broadcast in the jurisdiction where the incinerator is located. The director shall accept comment on the tentative decision for 60 days. The director also may hold a public hearing upon request or at the director's discretion.

(3) After the close of the public comment period, the director shall issue a decision whether or not to certify the incinerator.

R315-265-440. Drip Pads -- Applicability.

(a) The requirements of Sections R315-265-440 through R315-265-445 apply to owners and operators of facilities that use new or existing drip pads to convey treated wood drippage, precipitation, and surface water run-off or any combination of the three to an associated collection system. Existing drip pads are those constructed before December 6, 1990 and those that the owner or operator has a design and has entered into binding financial or other agreements for construction before December 6, 1990. Any other drip pads are new drip pads. The requirement at Subsection R315-265-443(b)(3) to install a leak collection system applies only to those drip pads that are constructed after December 24, 1992 except for those constructed after December 24, 1992 that the owner or operator has a design and has entered into binding financial or other agreements for construction before December 24, 1992.

(b) The owner or operator of any drip pad that is inside or under a structure that provides protection from precipitation so that neither run-off nor run-on is generated is not subject to Subsection R315-265-443(e) or R315-265-443(f), as appropriate.

(c) The requirements of Sections R315-265-440 through R315-265-445 are not applicable to the management of infrequent and incidental drippage in storage yards if:

(1) the owner or operator maintains and complies with a written contingency plan that describes how the owner or operator will respond immediately to the discharge of the infrequent and incidental drippage. At a minimum, the contingency plan shall describe how the facility will do the following:

(i) clean up the drippage;

(ii) document the cleanup of the drippage;

(iii) keep documents regarding cleanup for three years; and

(iv) manage the contaminated media in a manner consistent with Title R315.

R315-265-441. Drip Pads -- Assessment of Existing Drip Pad Integrity.

(a) For each existing drip pad as defined in Section R315-265-440, the owner or operator shall evaluate the drip pad and determine that it meets the requirements of Sections R315-265-440 through R315-265-445, except the requirements for liners and leak detection systems specified in Subsection R315-265-443(b). No later than the effective date of this rule, the owner or operator shall get and keep on file at the facility a written assessment of the drip pad, reviewed and certified by a qualified professional engineer that attests to the results of the evaluation. The assessment shall be reviewed, updated, and recertified annually until the upgrades, repairs, or modifications necessary to achieve compliance with the standards of Section R315-265-443 are finished. The evaluation shall document the extent that the drip pad meets each of the design and operating standards of Section R315-265-443, except the standards for liners and leak detection systems, specified in Subsection R315-265-443(b).

(b) The owner or operator shall develop a written plan for upgrading, repairing, and modifying the drip pad to meet the requirements of Subsection R315-265-443(b), and submit the plan to the director no later than two years before the date that the repairs, upgrades, and modifications are finished. This written plan shall describe each change to be made to the drip pad in sufficient detail to document compliance with the requirements of Section R315-265-443. The plan shall be reviewed and certified by a qualified professional engineer.

(c) Upon completion of the repairs and modifications, the owner or operator shall submit to the director the as-built drawings for the drip pad together with a certification by a qualified professional engineer attesting that the drip pad conforms to the drawings.

(d) If the drip pad is found to be leaking or unfit for use, the owner or operator shall comply with Subsection R315-265-443(m) or close the drip pad in accordance with Section R315-265-445.

R315-265-442. Drip Pads -- Design and Installation of New Drip Pads.

Owners and operators of new drip pads shall ensure that the pads are designed, installed, and operated in accordance with one of the following:

(a) the applicable requirements of Section R315-265-443, except Subsection R315-265-443(a)(4), Sections R315-265-444 and R315-265-445; or

(b) the applicable requirements of Section R315-265-443, except Subsection R315-265-443(b), Sections R315-265-444 and R315-265-445.

R315-265-443. Drip Pads -- Design and Operating Requirements.

(a) Drip pads shall:

(1) be constructed of non-earthen materials, excluding wood and non-structurally supported asphalt;

(2) be sloped to free-drain treated wood drippage, rain and other waters, or solutions of drippage and water or other wastes to the associated collection system;

(3) have a curb or berm around the perimeter;

(4)(i) have a hydraulic conductivity of less than or equal to $1x10^{-7}$ centimeters per second, for example, existing concrete drip pads shall be sealed, coated, or covered with a surface material with a hydraulic conductivity of less than or equal to $1x10^{-7}$ centimeters per second so that the entire surface where drippage occurs or may run across is capable of containing the drippage and mixtures of drippage and precipitation, materials, or other wastes while being routed to an associated collection system. This surface material shall be maintained free of cracks and gaps that could adversely affect its hydraulic conductivity, and the material shall be chemically compatible with the preservatives that contact the drip pad. The requirements of this provision apply only to existing drip pads and those drip pads that the owner or operator elects to comply with Subsection R315-265-442(b) instead of Subsection R315-265-442(a); and

(ii) the owner or operator shall get and keep on file at the facility a written assessment of the drip pad, reviewed and certified by a qualified professional engineer that attests to the results of the evaluation. The assessment shall be reviewed, updated and recertified annually. The evaluation shall document the extent that the drip pad meets the design and operating standards of Section R315-265-443, except for Subsection R315-265-443(b); and

(5) be of sufficient structural strength and thickness to prevent failure due to physical contact, climatic conditions, the stress of installation, and the stress of daily operations, for example, variable and moving loads such as vehicle traffic and movement of wood. The director will generally consider applicable standards established by professional organizations generally recognized by industry such as the American Concrete Institute (ACI) and the American Society of Testing Materials (ASTM) in judging the structural integrity requirement of Subsection R315-265-443(a).

(b) If an owner or operator elects to comply with Subsection R315-265-442(a) instead of Subsection R315-265-442(b), the drip pad shall have:

(1) a synthetic liner installed below the drip pad that is designed, constructed, and installed to prevent leakage from the drip pad into the adjacent subsurface soil or groundwater or surface water at any time during the active life, including the closure period, of the drip pad.

The liner shall be constructed of materials that will prevent waste from being absorbed into the liner and prevent releases into the adjacent subsurface soil or ground water or surface water during the active life of the facility. The liner shall be:

(i) constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients, including static head and external hydrogeologic forces, physical contact with the waste or drip pad leakage that they are exposed, climatic conditions, the stress of installation, and the stress of daily operation, including stresses from vehicular traffic on the drip pad;

(ii) placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression or uplift; and

(iii) installed to cover the surrounding earth that could come in contact with the waste or leakage; and

(2) a leakage detection system immediately above the liner that is designed, constructed, maintained and operated to detect leakage from the drip pad. The leakage detection system shall be:

(i) constructed of materials that are:

(A) chemically resistant to the waste managed in the drip pad and the leakage that might be generated; and

(B) of sufficient strength and thickness to prevent collapse under the pressures exerted by overlaying materials and by any equipment used at the drip pad; and

(ii) designed and operated to function without clogging through the scheduled closure of the drip pad; and

(iii) designed so that it will detect the failure of the drip pad or the presence of a release of hazardous waste or accumulated liquid at the earliest practicable time; and

(3) a leakage collection system immediately above the liner that is designed, constructed, maintained and operated to collect leakage from the drip pad so that it can be removed from below the drip pad. The date, time, and quantity of any leakage collected in this system and removed shall be documented in the operating log.

(c) Drip pads shall be maintained so that they remain free of cracks, gaps, corrosion, or other deterioration that could cause hazardous waste to be released from the drip pad. See Subsection R315-265-443(m) for remedial action required if deterioration or leakage is detected.

(d) The drip pad and associated collection system shall be designed and operated to convey, drain, and collect liquid resulting from drippage or precipitation to prevent run-off.

(e) Unless protected by a structure, as described in Subsection R315-265-440(b), the owner or operator shall design, construct, operate and maintain a run-on control system capable of preventing flow onto the drip pad during peak discharge from at least a 24-hour, 25-year storm unless the system has sufficient excess capacity to contain any run-on that might enter the system, or the drip pad is protected by a structure or cover, as described in Subsection R315-265-440(b).

(f) Unless protected by a structure or cover, as described in Subsection R315-265-440(b), the owner or operator shall design, construct, operate and maintain a run-off management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm.

(g) The drip pad shall be evaluated to determine that it meets the requirements of Subsections R315-265-443(a) through R315-265-443(f) and the owner or operator shall get a statement from a qualified professional engineer certifying that the drip pad design meets the requirements of Section R315-265-443.

(h) Drippage and accumulated precipitation shall be removed from the associated collection system as necessary to prevent overflow onto the drip pad.

(i) The drip pad surface shall be cleaned thoroughly in a manner and frequency so that accumulated residues of hazardous waste or other materials are removed, with residues being properly managed as hazardous waste, to allow weekly inspections of the entire drip pad surface without interference or hindrance from accumulated residues of hazardous waste or other materials on the drip pad. The owner or operator shall document the date and time of each cleaning and the cleaning procedure used in the facility's operating log.

(j) Drip pads shall be operated and maintained in a manner to minimize tracking of hazardous waste or hazardous waste constituents off the drip pad as a result of activities by personnel or equipment.

(k) After being removed from the treatment vessel, treated wood from pressure and non-pressure processes shall be held on the drip pad until drippage has stopped. The owner or operator shall maintain records sufficient to document that the treated wood is held on the pad following treatment in accordance with this requirement.

(l) Collection and holding units associated with run-on and run-off control systems shall be emptied or otherwise managed as soon as possible after storms to maintain design capacity of the system.

(m) Throughout the active life of the drip pad, if the owner or operator detects a condition that may have caused or has caused a release of hazardous waste, the condition shall be repaired within a reasonably prompt period following discovery, in accordance with the following procedures:

(1) Upon detection of a condition that may have caused or has caused a release of hazardous waste, for example, upon detection of leakage by the leak detection system, the owner or operator shall:

(i) enter a record of the discovery in the facility operating log;

(ii) immediately remove the portion of the drip pad affected by the condition from service;

(iii) determine what steps shall be taken to repair the drip pad, remove any leakage from below the drip pad, and establish a schedule for accomplishing the clean up and repairs; and

(iv) within 24 hours after discovery of the condition, notify the director of the condition and, within ten working days, provide a written notice to the director with a description of the steps that will be taken to repair the drip pad, and clean up any leakage, and the schedule for accomplishing this work.

(2) The director will review the information submitted, make a determination regarding whether the pad shall be removed from service completely or partially until repairs and clean up are finished, and notify the owner or operator of the determination and the underlying rationale in writing.

(3) Upon completing the repairs and clean up, the owner or operator shall notify the director in writing and provide a certification, signed by an independent qualified, registered professional engineer, that the repairs and clean up have been finished according to the written plan submitted in accordance with Subsection R315-265-443(m)(1)(iv).

(n) The owner or operator shall maintain, as part of the facility operating log, documentation of past operating and waste handling practices. This shall include identification of preservative formulations used in the past, a description of drippage management practices, and a description of treated wood storage and handling practices.

R315-265-444. Drip Pads -- Inspections.

(a) During construction or installation, liners and cover systems, for example, membranes, sheets, or coatings, shall be inspected for uniformity, damage and imperfections, for example, holes, cracks, thin spots, or foreign materials. Immediately after construction or installation, liners shall be inspected and certified as meeting the requirements of Section R315-265-443 by a qualified professional engineer. This certification shall be maintained at the facility as part of the facility operating record. After installation, liners and covers shall be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters.

(b) While a drip pad is in operation, it shall be inspected weekly and after storms to detect evidence of any of the following:

(1) Deterioration, malfunctions or improper operation of run-on and run-off control systems.

(2) The presence of leakage in and proper functioning of leakage detection system.

(3) Deterioration or cracking of the drip pad surface. See Subsection R315-265-44(m) for remedial action required if deterioration or leakage is detected.

R315-265-445. Drip Pads -- Closure.

(a) At closure, the owner or operator shall remove or decontaminate the waste residues, contaminated containment system components such as pads or liners, contaminated subsoils, and structures and equipment contaminated with waste and leakage, and manage them as hazardous waste.

(b) If, after removing or decontaminating residues and making reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in Subsection R315-265-445(a), the owner or operator finds that contaminated subsoils cannot be practically removed or decontaminated, the owner or operator shall close the facility and perform post-closure care in accordance with closure and post-closure care requirements that apply to landfills, see Section R315-265-310. For permitted units, the requirement to have a permit continues throughout the post-closure period.

(c)(1) The owner or operator of an existing drip pad, as defined in Section R315-265-440, that does not comply with the liner requirements of Subsection R315-265-443(b)(1) shall:

(i) include in the closure plan for the drip pad under Section R315-265-112 both a plan for complying with Subsection R315-265-445(a) and a contingent plan for complying with Subsection R315-265-445(b) in case contaminated subsoils cannot be practicably removed at closure; and

(ii) prepare a contingent post-closure plan under Section R315-265-118 for complying with Subsection R315-265-445(b) in case contaminated subsoils cannot be practicably removed at closure.

(2) The cost estimates calculated under Sections R315-265-112 and R315-265-144 for closure and post-closure care of a drip pad subject to Subsection R315-265-445(c) shall include the cost of complying with the contingent closure plan and the contingent post-closure plan, but are not required to include the cost of expected closure under Subsection R315-265-445(a).

R315-265-1050. Air Emission Standards for Equipment Leaks -- Applicability.

(a) Sections R315-265-1050 through R315-265-1064 apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes, except as provided in Section R315-265-1.

(b) Except as provided in Subsection R315-265-1064(k), Sections R315-265-1050 through R315-265-1064 apply to equipment that contains or contacts hazardous wastes with organic concentrations of at least 10% by weight that are managed in one of the following:

(1) a unit that is subject to the permitting requirements of Rule R315-270; or

(2) a unit, including a hazardous waste recycling unit, that is not exempt from permitting under Section R315-262-17, for example, a hazardous waste recycling unit that is not a 90-day tank or container, and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of Rule R315-270; or

(3) a unit that is exempt from permitting under Section R315-262-17, for example, a 90-day tank or container, and is not a recycling unit under Section R315-261-6.

(c) Each piece of equipment regulated under Sections R315-265-1050 through R315-265-1064 shall be marked so that it can be distinguished readily from other pieces of equipment.

(d) Equipment that is in vacuum service is excluded from the requirements of Sections R315-265-1052 through R315-265-1060 if it is identified as required in Subsection R315-265-1064(g)(5).

(e) Equipment that contains or contacts hazardous waste with an organic concentration of at least 10% by weight for less than 300 hours per calendar year is excluded from the requirements of Sections R315-265-1052 through R315-265-1060 if it is identified, as required in Subsection R315-265-1064(g)(6).

(f) Reserved.

(g) Purged coatings and solvents from surface coating operations subject to the national emission standards for hazardous air pollutants (NESHAP) for the surface coating of automobiles and light-duty trucks at 40 CFR part 63, subpart IIII, are not subject to the requirements of Sections R315-265-1050 through R315-265-1064.

(h) The requirements of Sections R315-265-1052 through R315-265-1064 apply to equipment associated with hazardous waste recycling units previously exempt under Subsection R315-261-6(c)(1). Other exemptions under Section R315-261-4 and Subsection R315-265-1(c) are not affected by these requirements.

R315-265-1051. Air Emission Standards for Equipment Leaks -- Definitions.

As used in Sections R315-265-1052 through R315-265-1064, the terms shall have the meaning given them in Section R315-264-1031, Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, and Rules R315-260 through R315-266.

R315-265-1052. Air Emission Standards for Equipment Leaks -- Standards: Pumps in Light Liquid Service.

(a)(1) Each pump in light liquid service shall be monitored monthly to detect leaks by the methods specified in Subsection R315-265-1063(b), except as provided in Subsections R315-265-1052(d), R315-265-1052(e), and R315-265-1052(f).

(2) Each pump in light liquid service shall be checked by visual inspection each calendar week for indications of liquids dripping from the pump seal.

(b)(1) If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.

(2) If there are indications of liquids dripping from the pump seal, a leak is detected.

(c)(1) If a leak is detected, it shall be repaired as soon as practicable, but before 15 calendar days after it is detected, except as provided in Section R315-265-1059.

(2) A first attempt at repair, for example, tightening the packing gland, shall be made no later than five calendar days after each leak is detected.

(d) Each pump equipped with a dual mechanical seal system that includes a barrier fluid system and that meets the following requirements is exempt from the requirements of Subsection R315-265-1052(a):

(1) Each dual mechanical seal system shall be:

(i) operated with the barrier fluid at a pressure that is always greater than the pump stuffing box pressure; or

(ii) equipped with a barrier fluid degassing reservoir that is connected by a closed-vent system to a control device that complies with the requirements of Section R315-265-1060; or

(iii) equipped with a system that purges the barrier fluid into a hazardous waste stream with no detectable emissions to the atmosphere.

(2) The barrier fluid system may not be a hazardous waste with organic concentrations 10% or greater by weight.

(3) Each barrier fluid system shall be equipped with a sensor that will detect failure of the seal system, the barrier fluid system or both.

(4) Each pump shall be checked by visual inspection, each calendar week, for indications of liquids dripping from the pump seals.

(5)(i) Each sensor as described in Subsection R315-265-1052(d)(3) shall be checked daily or be equipped with an audible alarm that shall be checked monthly to ensure that it is functioning properly.

(ii) The owner or operator shall determine, based on design considerations and operating experience, a criterion that indicates failure of the seal system, the barrier fluid system, or both.

(6)(i) If there are indications of liquids dripping from the pump seal or the sensor indicates failure of the seal system, the barrier fluid system, or both, based on the criterion determined in Subsection R315-265-1052(d)(5)(ii), a leak is detected.

(ii) If a leak is detected, it shall be repaired as soon as practicable, but before 15 calendar days after it is detected, except as provided in Section R315-265-1059.

(iii) A first attempt at repair, for example, relapping the seal, shall be made no later than five calendar days after each leak is detected.

(e) Any pump that is designated, as described in Subsection R315-265-1064(g)(2), for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of Subsections R315-265-1052(a), R315-265-1052(c), and R315-265-1052(d) if the pump meets the following requirements:

(1) Shall have no externally actuated shaft penetrating the pump housing.

(2) Shall operate with no detectable emissions as indicated by an instrument reading of less than 500 ppm above background as measured by the methods specified in Subsection R315-265-1063(c).

(3) Shall be tested for compliance with Subsection R315-265-1052(e)(2) initially upon designation, annually, and at other times as requested by the director.

(f) If any pump is equipped with a closed-vent system capable of capturing and transporting any leakage from the seal or seals to a control device that complies with the requirements of Section R315-265-1060, it is exempt from the requirements of Subsections R315-265-1052(a) through R315-265-1052(e).

R315-265-1053. Air Emission Standards for Equipment Leaks -- Standards: Compressors.

(a) Each compressor shall be equipped with a seal system that includes a barrier fluid system and that prevents leakage of total organic emissions to the atmosphere, except as provided in Subsections R315-265-1053(h) and R315-265-1053(i).

(b) Each compressor seal system as required in Subsection R315-265-1053(a) shall be:

(1) operated with the barrier fluid at a pressure that is always greater than the compressor stuffing box pressure; or

(2) equipped with a barrier fluid system that is connected by a closed-vent system to a control device that complies with the requirements of Section R315-265-1060; or

(3) equipped with a system that purges the barrier fluid into a hazardous waste stream with no detectable emissions to atmosphere.

(c) The barrier fluid may not be a hazardous waste with organic concentrations 10% or greater by weight.

(d) Each barrier fluid system as described in Subsections R315-265-1053(a) through R315-265-1053(c) shall be equipped with a sensor that will detect failure of the seal system, barrier fluid system, or both.

(e)(1) Each sensor as required in Subsection R315-265-1053(d) shall be checked daily or shall be equipped with an audible alarm that shall be checked monthly to ensure that it is functioning properly unless the compressor is located within the boundary of an unmanned plant site, in which case the sensor shall be checked daily.

(2) The owner or operator shall determine, based on design considerations and operating experience, a criterion that indicates failure of the seal system, the barrier fluid system or both.

(f) If the sensor indicates failure of the seal system, the barrier fluid system, or both, based on the criterion determined under Subsection R315-625-1053(e)(2), a leak is detected.

(g)(1) If a leak is detected, it shall be repaired as soon as practicable, but before 15 calendar days after it is detected, except as provided in Section R315-265-1059.

(2) A first attempt at repair, for example, tightening the packing gland, shall be made no later than five calendar days after each leak is detected.

(h) A compressor is exempt from the requirements of Subsections R315-265-1053(a) and R315-265-1053(b) if it is equipped with a closed-vent system capable of capturing and transporting any leakage from the seal to a control device that complies with the requirements of Section R315-265-1060, except as provided in Subsection R315-265-1053(i).

(i) Any compressor that is designated, as described in Subsection R315-265-1064(g)(2), for no detectable emission as indicated by an instrument reading of less than 500 ppm above background is exempt from the requirements of Subsections R315-265-1053(a) through R315-265-1053(h) if the compressor:

(1) is determined to be operating with no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as measured by the method specified in Subsection R315-265-1063(c).

(2) is tested for compliance with Subsection R315-265-1053(i)(1) initially upon designation, annually, and at other times as requested by the director.

R315-265-1054. Air Emission Standards for Equipment Leaks -- Standards: Pressure Relief Devices in Gas or Vapor Service.

(a) Except during pressure releases, each pressure relief device in gas or vapor service shall be operated with no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as measured by the method specified in Subsection R315-265-1063(c).

(b)(1) After each pressure release, the pressure relief device shall be returned to a condition of no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as soon as practicable, but no later than five calendar days after each pressure release, except as provided in Section R315-265-1059.

(2) No later than five calendar days after the pressure release, the pressure relief device shall be monitored to confirm the condition of no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as measured by the method specified in Subsection R315-265-1063(c).

(c) Any pressure relief device that is equipped with a closed-vent system capable of capturing and transporting leakage from the pressure relief device to a control device as described in Section R315-265-1060 is exempt from the requirements of Subsections R315-265-1054(a) and R315-265-1054(b).

R315-265-1055. Air Emission Standards for Equipment Leaks -- Standards: Sampling Connection Systems.

(a) Each sampling connection system shall be equipped with a closed-purge, closed-loop, or closed-vent system. This system shall collect the sample purge for return to the process or for routing to the appropriate treatment system. Gases displaced during filling of the sample container are not required to be collected or captured.

(b) Each closed-purge, closed-loop, or closed-vent system as required in Subsection R315-265-1055(a) shall:

(1) return the purged process fluid directly to the process line; or

(2) collect and recycle the purged process fluid; or

(3) be designed and operated to capture and transport the purged process fluid to a waste management unit that complies with the applicable requirements of Sections R315-265-1085 through R315-265-1087 or a control device that complies with the requirements of Section R315-265-1060.

(c) In-situ sampling systems and sampling systems without purges are exempt from the requirements of Subsections R315-265-1055(a) and R315-265-1055(b).

R315-265-1056. Air Emission Standards for Equipment Leaks -- Standards: Open-Ended Valves or Lines.

(a)(1) Each open-ended valve or line shall be equipped with a cap, blind flange, plug, or a second valve.

(2) The cap, blind flange, plug, or second valve shall always seal the open end except during operations requiring hazardous waste stream flow through the open-ended valve or line.

(b) Each open-ended valve or line equipped with a second valve shall be operated in a manner so that the valve on the hazardous waste stream end is closed before the second valve is closed.

(c) If a double block and bleed system is being used, the bleed valve or line may remain open during operations that require venting the line between the block valves but shall comply with Subsection R315-265-1056(a) at any other time.

R315-265-1057. Air Emission Standards for Equipment Leaks -- Standards: Valves in Gas or Vapor Service or in Light Liquid Service.

(a) Each valve in gas or vapor or light liquid service shall be monitored monthly to detect leaks by the methods specified in Subsection R315-265-1063(b) and shall comply with Subsections R315-265-1057(b) through R315-265-1057(e), except as provided in Subsections R315-265-1057(f), R315-265-1057(g), and R315-265-1057(h), and Sections R315-265-1061 and R315-265-1062.

(b) If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.

(c)(1) Any valve for which a leak is not detected for two successive months may be monitored the first month of each succeeding quarter, beginning with the next quarter, until a leak is detected.

(2) If a leak is detected, the valve shall be monitored monthly until a leak is not detected for two successive months.

(d)(1) If a leak is detected, it shall be repaired as soon as practicable, but no later than 15 calendar days after the leak is detected, except as provided in Section R315-265-1059.

(2) A first attempt at repair shall be made no later than five calendar days after each leak is detected.

(e) First attempts at repair include the following best practices when practicable:

(1) Tightening of bonnet bolts.

(2) Replacement of bonnet bolts.

(3) Tightening of packing gland nuts.

(4) Injection of lubricant into lubricated packing.

(f) Any valve that is designated, as described in Subsection R315-265-1064(g)(2), for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, is exempt from the requirements of Subsection R315-265-1057(a) if the valve:

(1) has no external actuating mechanism in contact with the hazardous waste stream;

(2) is operated with emissions less than 500 ppm above background as determined by the method specified in Subsection R315-265-1063(c); and

(3) is tested for compliance with Subsection R315-265-1057(f)(2) initially upon designation, annually, and at other times as requested by the director.

(g) Any valve that is designated, as described in Subsection R315-265-1064(h)(1), as an unsafe to monitor valve is exempt from the requirements of Subsection R315-265-1057(a) if:

(1) the owner or operator of the valve determines that the valve is unsafe to monitor because monitoring personnel would be exposed to an immediate danger as a result of complying with Subsection R315-265-1057(a); and

(2) the owner or operator of the valve adheres to a written plan that requires monitoring of the valve as frequently as practicable during safe-to-monitor times.

(h) Any valve that is designated, as described in Subsection R315-265-1064(h)(2), as a difficult to monitor valve is exempt from the requirements of Subsection R315-265-1057(a) if:

(1) the owner or operator of the valve determines that the valve cannot be monitored without elevating the monitoring personnel more than two meters above a support surface;

(2) the hazardous waste management unit where the valve is located was in operation before June 21, 1990; and

(3) the owner or operator of the valve follows a written plan that requires monitoring of the valve at least once per calendar year.

R315-265-1058. Air Emission Standards for Equipment Leaks -- Standards: Pumps and Valves in Heavy Liquid Service, Pressure Relief Devices in Light Liquid or Heavy Liquid Service, and Flanges and other Connectors.

(a) Pumps and valves in heavy liquid service, pressure relief devices in light liquid or heavy liquid service, and flanges and other connectors shall be monitored within five days by the method specified in Subsection R315-265-1063(b) if evidence of a potential leak is found by visual, audible, olfactory, or any other detection method.

(b) If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.

(c)(1) If a leak is detected, it shall be repaired as soon as practicable, but before 15 calendar days after it is detected, except as provided in Section R315-265-1059.

(2) The first attempt at repair shall be made no later than five calendar days after each leak is detected.

(d) First attempts at repair include the best practices described under Subsection R315-265-1057(e).

(e) Any connector that is inaccessible or is ceramic or ceramic-lined, for example, porcelain, glass, or glass-lined, is exempt from the monitoring requirements of Subsection R315-265-1058(a) and from the recordkeeping requirements of Section R315-265-1064.

R315-265-1059. Air Emission Standards for Equipment Leaks -- Standards: Delay of Repair.

(a) Delay of repair of equipment for which leaks have been detected will be allowed if the repair is technically infeasible without a hazardous waste management unit shutdown. In such a case, repair of this equipment shall occur before the end of the next hazardous waste management unit shutdown.

(b) Delay of repair of equipment for which leaks have been detected will be allowed for equipment that is isolated from the hazardous waste management unit and that does not continue to contain or contact hazardous waste with organic concentrations at least 10% by weight.

(c) Delay of repair for valves will be allowed if:

(1) The owner or operator determines that emissions of purged material resulting from immediate repair are greater than the emissions likely to result from delay of repair.

(2) When repair procedures are effected, the purged material is collected and destroyed or recovered in a control device complying with Section R315-265-1060.

(d) Delay of repair for pumps will be allowed if:

(1) Repair requires the use of a dual mechanical seal system that includes a barrier fluid system.

(2) Repair is finished as soon as practicable, but before six months after the leak was detected.

(e) Delay of repair beyond a hazardous waste management unit shutdown will be allowed for a valve if valve assembly replacement is necessary during the hazardous waste management unit shutdown, valve assembly supplies have been depleted, and valve assembly supplies had been sufficiently stocked before the supplies were depleted. Delay of repair beyond the next hazardous waste management unit shutdown will not be allowed unless the next hazardous waste management unit shutdown occurs sooner than six months after the first hazardous waste management unit shutdown.

R315-265-1060. Air Emission Standards for Equipment Leaks -- Standards: Closed-Vent Systems and Control Devices.

(a) Owners and operators of closed-vent systems and control devices subject to Sections R315-265-1050 through R315-265-1064 shall comply with Section R315-265-1033.

(b)(1) The owner or operator of an existing facility who cannot install a closed-vent system and control device to comply with Sections R315-265-1050 through R315-265-1064 on the effective date that the facility becomes subject to Sections R315-265-1050 through R315-265-1064 shall prepare an implementation schedule that includes dates that the closed-vent system and control device will be installed and in operation. The controls shall be installed as soon as possible, but the implementation schedule may allow up to 30 months after the effective date that the facility becomes subject to Sections R315-265-1050 through R315-265-1064 for installation and startup.

(2) Any units that begin operation after December 21, 1990, and are subject to Sections R315-265-1050 through R315-265-1064 when operation begins, shall comply with the rules immediately, in other words, shall have control devices installed and operating on startup of the affected unit, the 30-month implementation schedule does not apply.

(3) The owner or operator of any facility in existence on the effective date of a statutory, EPA regulatory, or Utah Administrative Code amendment that makes the facility subject to Sections R315-265-1050 through R315-265-1064 shall comply with the requirements of Sections R315-265-1050 through R315-265-1064 as soon as practicable but no later than 30 months after the amendment's effective date. If control equipment required by Sections R315-265-1050 through R315-265-1064 cannot be installed and begin operation by the effective date of the amendment, the facility owner or operator shall prepare an implementation schedule that includes the following information:

(i) specific calendar dates for award of contracts or issuance of purchase orders for the control equipment;

(ii) initiation of on-site installation of the control equipment;

(iii) completion of the control equipment installation; and

(iv) performance of any testing to demonstrate that the installed equipment meets the applicable standards of Sections R315-265-1050 through R315-265-1064.

(v) The owner or operator shall enter the implementation schedule in the operating record or in a permanent, readily available file located at the facility.

(4) Owners and operators of facilities and units that become newly subject to the requirements of Sections R315-265-1050 through R315-265-1064 after December 8, 1997 due to an action other than those described in Subsection R315-265-1060(b)(3) shall comply with the applicable requirements immediately, in other words, shall have control devices installed and operating on the date the facility or unit becomes subject to Sections R315-265-1050 through R315-265-1064, the 30-month implementation schedule does not apply.

R315-265-1061. Air Emission Standards for Equipment Leaks -- Alternative Standards for Valves in Gas or Vapor Service or in Light Liquid Service: Percentage of Valves Allowed to Leak.

(a) An owner or operator subject to the requirements of Section R315-265-1057 may elect to have the valves within a hazardous waste management unit comply with an alternative standard that allows no greater than 2% of the valves to leak.

(b) The following requirements shall be met if an owner or operator decides to comply with the alternative standard of allowing 2% of valves to leak:

(1) A performance test as specified in Subsection R315-265-1061(c) shall be conducted initially upon designation, annually, and at other times requested by the director.

(2) If a valve leak is detected, it shall be repaired in accordance with Subsections R315-265-1057(d) and R315-265-1057(e).

(c) Performance tests shall be conducted in the following manner:

(1) Valves subject to the requirements in Section R315-265-1057 within the hazardous waste management unit shall be monitored within 1 week by the methods specified in Subsection R315-265-1063(b).

(2) If an instrument reading of 10,000 ppm or greater is measured, a leak is detected.

(3) The leak percentage shall be determined by dividing the number of valves subject to the requirements in Section R315-265-1057 that have detected leaks by the total number of valves subject to the requirements in Section R315-265-1057 within the hazardous waste management unit.

R315-265-1062. Air Emission Standards for Equipment Leaks -- Alternative Standards for Valves in Gas or Vapor Service or in Light Liquid Service: Skip Period Leak Detection and Repair.

(a) An owner or operator subject to the requirements of Section R315-265-1057 may elect for each valve within a hazardous waste management unit to comply with one of the alternative work practices specified in Subsections R315-265-1062(b)(2) and R315-265-1062(b)(3).

(b)(1) An owner or operator shall comply with the requirements for valves, as described in Section R315-265-1057, except as described in Subsections R315-265-1062(b)(2) and R315-265-1062(b)(3).

(2) After two consecutive quarterly leak detection periods with the percentage of valves leaking equal to or less than 2%, an owner or operator may begin to skip one of the quarterly leak detection periods, for example, monitor for leaks once every six months, for the valves subject to the requirements in Section R315-265-1057.

(3) After five consecutive quarterly leak detection periods with the percentage of valves leaking equal to or less than 2%, an owner or operator may begin to skip three of the quarterly leak detection periods, for example, monitor for leaks once each year, for the valves subject to the requirements in Section R315-265-1057.

(4) If the percentage of valves leaking is greater than 2%, the owner or operators shall monitor monthly in compliance with the requirements in Section R315-265-1057 but may again elect to use Section R315-265-1062 after meeting the requirements of Subsection R315-265-1057(c)(1).

R315-265-1063. Air Emission Standards for Equipment Leaks -- Test Methods and Procedures.

(a) Each owner or operator subject to Sections R315-265-1050 through R315-265-1064 shall comply with the test methods and procedures requirements provided in Section R315-265-1062.

(b) Leak detection monitoring, as required in Sections R315-265-1052 through R315-265-1062, shall comply with the following requirements:

(1) Monitoring shall comply with Reference Method 21 in 40 CFR part 60.

(2) The detection instrument shall meet the performance criteria of Reference Method 21.

(3) The instrument shall be calibrated before use on each day of its use by the procedures specified in Reference Method 21.

(4) Calibration gases shall be:

(i) zero air, less than 10 ppm of hydrocarbon in air; and

(ii) a mixture of methane or n-hexane and air at a concentration of about, but less than, 10,000 ppm methane or n-hexane.

(5) The instrument probe shall be traversed around each potential leak interface as close to the interface as possible as described in Reference Method 21.

(c) When equipment is tested for compliance with no detectable emissions, as required in Subsections R315-265-1052(e), R315-265-1053(i), Section R315-265-1054, and Subsection R315-265-1057(f), the test shall comply with the following requirements:

(1) The requirements of Subsections R315-265-1062(b)(1) through R315-265-1062(b)(4) shall apply.

(2) The background level shall be determined, as set forth in Reference Method 21.

(3) The instrument probe shall be traversed around each potential leak interface as close to the interface as possible as described in Reference Method 21.

(4) The arithmetic difference between the maximum concentration indicated by the instrument and the background level is compared with 500 ppm for determining compliance.

(d) In accordance with the waste analysis plan required by Subsection R315-265-13(b), an owner or operator of a facility shall determine, for each piece of equipment, whether the equipment contains or contacts a hazardous waste with organic concentration that equals or exceeds 10% by weight using the following:

(1) methods described in ASTM Methods D 2267-88, E 169-87, E 168-88, E 260-85, incorporated by reference in Section R315-260-11;

(2) method 9060A, incorporated by reference in Section R315-260-11, of "Test Methods for Evaluating Solid Waste", EPA Publication SW-846 or analyzed for its individual organic constituents; or

(3) application of the knowledge of the nature of the hazardous waste stream or the process that produced the waste. Documentation of a waste determination by knowledge is required. Examples of documentation that shall be used to support a determination under Subsection R315-265-1063(d) include production process information documenting that no organic compounds are used, information that the waste is generated by a process that is identical to a process at the facility or another facility that has previously been demonstrated by direct measurement to have a total organic content less than 10%, or earlier speciation analysis results on the waste stream when it can also be documented that no process changes have occurred since that analysis that could affect the waste total organic concentration.

(e) If an owner or operator determines that a piece of equipment contains or contacts a hazardous waste with organic concentrations at least 10% by weight, the determination can be revised only after following the procedures in Subsection R315-265-1063(d)(1) or R315-265-1063(d)(2).

(f) If an owner or operator and the director do not agree on whether a piece of equipment contains or contacts a hazardous waste with organic concentrations at least 10% by weight, the procedures in Subsection R315-265-1063(d)(1) or R315-265-1063(d)(2) can be used to resolve the dispute.

(g) Samples used in determining the percent organic content shall be representative of the highest total organic content hazardous waste that is expected to be contained in or contact the equipment.

(h) To determine if pumps or valves are in light liquid service, the vapor pressures of constituents may be procured from standard reference texts or may be determined by ASTM D-2879-86, incorporated by reference in Section R315-260-11.

(i) Performance tests to determine if a control device achieves 95 weight percent organic emission reduction shall comply with the procedures of Subsections R315-265-1034(c)(1) through R315-265-1034(c)(4).

R315-265-1064. Air Emission Standards for Equipment Leaks -- Recordkeeping Requirements.

(a)(1) Each owner or operator subject to Sections R315-265-1050 through R315-265-1064 shall comply with the recordkeeping requirements of Section R315-265-1064.

(2) An owner or operator of more than one hazardous waste management unit subject to Sections R315-265-1050 through R315-265-1064 may comply with the recordkeeping requirements for these hazardous waste management units in one recordkeeping system if the system identifies each record by each hazardous waste management unit.

(b) Owners and operators shall record the following information in the facility operating record:

(1) For each piece of equipment that Sections R315-265-1050 through R315-265-1064 applies:

(i) Equipment identification number and hazardous waste management unit identification.

(ii) Approximate locations within the facility, for example, identify the hazardous waste management unit on a facility plot plan.

(iii) Type of equipment, for example, a pump or pipeline valve.

(iv) Percent-by-weight total organics in the hazardous waste stream at the equipment.

(v) Hazardous waste state at the equipment, for example, gas or vapor or liquid.

(vi) Method of compliance with the standard, for example, "monthly leak detection and repair" or "equipped with dual mechanical seals".

(2) For facilities that comply with Subsection R315-265-1033(a)(2), an implementation schedule as specified in Subsection R315-265-1033(a)(2).

(3) When an owner or operator chooses to use test data to demonstrate the organic removal efficiency or total organic compound concentration achieved by the control device, a performance test plan as specified in Subsection R315-265-1035(b)(3).

(4) Documentation of compliance with Section R315-265-1060, including the detailed design documentation or performance test results specified in Subsection R315-265-1035(b)(4).

(c) When each leak is detected as specified in Sections R315-265-1052, R315-265-1053, R315-265-1057, and R315-265-1058, the following requirements apply:

(1) A weatherproof and readily visible identification, marked with the equipment identification number, the date evidence of a potential leak was found in accordance with Subsection R315-265-1058(a), and the date the leak was detected, shall be attached to the leaking equipment.

(2) The identification on equipment, except on a valve, may be removed after it has been repaired.

(3) The identification on a valve may be removed after it has been monitored for two successive months as specified in Subsection R315-265-1057(c) and no leak has been detected during those two months.

(d) When each leak is detected as specified in Sections R315-265-1052, R315-265-1053, R315-265-1057, and R315-265-1058, the following information shall be recorded in an inspection log and shall be kept in the facility operating record:

(1) The instrument and operator identification numbers and the equipment identification number.

(2) The date evidence of a potential leak was found in accordance with Subsection R315-265-1058(a).

(3) The date the leak was detected and the dates of each attempt to repair the leak.

(4) Repair methods applied in each attempt to repair the leak.

(5) "Above 10,000" if the maximum instrument reading measured by the methods specified in Subsection R315-265-1063(b) after each repair attempt is equal to or greater than 10,000 ppm.

(6) "Repair delayed" and the reason for the delay if a leak is not repaired within 15 calendar days after discovery of the leak.

(7) Documentation supporting the delay of repair of a valve in compliance with Subsection R315-265-1059(c).

(8) The signature of the owner or operator, or designate, whose decision it was that repair could not be effected without a hazardous waste management unit shutdown.

(9) The expected date of successful repair of the leak if a leak is not repaired within 15 calendar days.

(10) The date of successful repair of the leak.

(e) Design documentation and monitoring, operating, and inspection information for each closed-vent system and control device required to comply with Section R315-265-1060 shall be recorded and kept up-to-date in the facility operating record as specified in Subsection R315-265-1035(c). Design documentation is specified in Subsections R315-265.1035(c)(1) and R315-265-1035(c)(2) and monitoring, operating, and inspection information in Subsections R315-265.1035(c)(3) through R315-265-1035(c)(8).

(f) For a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system, monitoring and inspection information indicating proper operation and maintenance of the control device shall be recorded in the facility operating record.

(g) The following information pertaining to the equipment subject to the requirements in Sections R315-265-1052 through R315-265-1060 shall be recorded in a log that is kept in the facility operating record:

(1) A list of identification numbers for equipment, except welded fittings, subject to the requirements of Sections R315-265-1050 through R315-265-1064.

(2)(i) A list of identification numbers for equipment that the owner or operator elects to designate for no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, under Subsections R315-265-1052(e), R315-265-1053(i), and R315-265-1057(f).

(ii) The designation of this equipment as subject to the requirements of Subsection R315-265-1052(e), R315-265-1053(i), or R315-265-1057(f) shall be signed by the owner or operator.

(3) A list of equipment identification numbers for pressure relief devices required to comply with Subsection R315-265-1054(a).

(4)(i) The dates of each compliance test required in Subsections R315-265-1052(e), R315-265-1053(i), Section R315-265-1054, and Subsection R315-265-1057(f).

(ii) The background level measured during each compliance test.

(iii) The maximum instrument reading measured at the equipment during each compliance test.

(5) A list of identification numbers for equipment in vacuum service.

(6) Identification, either by list or location, area or group, of equipment that contains or contacts hazardous waste with an organic concentration of at least 10% by weight for less than 300 hours per calendar year.

(h) The following information pertaining to each valve subject to the requirements of Subsections R315-265-1057(g) and R315-265-1057(h) shall be recorded in a log that is kept in the facility operating record:

(1) A list of identification numbers for valves that are designated as unsafe to monitor, an explanation for each valve stating why the valve is unsafe to monitor, and the plan for monitoring each valve.

(2) A list of identification numbers for valves that are designated as difficult to monitor, an explanation for each valve stating why the valve is difficult to monitor, and the planned schedule for monitoring each valve.

(i) The following information shall be recorded in the facility operating record for valves complying with Section R315-265-1062:

(1) A schedule of monitoring.

(2) The percent of valves found leaking during each monitoring period.

(j) The following information shall be recorded in a log that is kept in the facility operating record:

(1) Criteria required in Subsections R315-265-1052(d)(5)(ii) and R315-265-1053(e)(2) and an explanation of the criteria.

(2) Any changes to these criteria and the reasons for the changes.

(k) The following information shall be recorded in a log that is kept in the facility operating record for use in determining exemptions as provided in Section R315-265-1050:

(1) An analysis determining the design capacity of the hazardous waste management unit.

(2) A statement listing the hazardous waste influent to and effluent from each hazardous waste management unit subject to the requirements in Sections R315-265-1052 through R315-265-1060 and an analysis determining whether these hazardous wastes are heavy liquids.

(3) An up-to-date analysis and the supporting information and data used to determine whether or not equipment is subject to the requirements in Sections R315-265-1052 through R315-265-1060. The record shall include supporting documentation as required by Subsection R315-265-1063(d)(3) when application of the knowledge of the nature of the hazardous waste stream or the process that produced the waste is used. If the owner or operator takes any action, for example, changing the process that produced the waste, that could result in an increase in the total organic content of the waste contained in or contacted by equipment determined not to be subject to the requirements in Sections R315-265-1052 through R315-265-1060, then a new determination is required.

(l) Records of the equipment leak information required by Subsection R315-265-1064(d) and the operating information required by Subsection R315-265-1064(e) need be kept only three years.

(m) The owner or operator of any facility with equipment that is subject to Sections R315-265-1050 through R315-265-1064 and to leak detection, monitoring, and repair requirements under regulations at 40 CFR part 60, part 61, or part 63 may elect to determine compliance with Sections R315-265-1050 through R315-265-1064 either by documentation pursuant to Section R315-265-1064, or by documentation of compliance with the regulations at 40 CFR part 60, part 61, or part 63 pursuant to the relevant requirements of the regulations at 40 CFR part 60, part 61, or part 63. The documentation of compliance under regulation at 40 CFR part 60, part 61, or part 63 shall be kept with or made readily available with the facility operating record.

R315-265-1400. Appendix V to Rule R315-265 - Examples of Potentially Incompatible Waste.

Appendix V to 40 CFR Part 265, 2023 Edition, is incorporated by reference.

KEY: hazardous waste, TSD facilities, interim status
Date of Last Change: 2024[~~January 17, 2023~~]
Notice of Continuation: January 14, 2021
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R315-266**	**Filing ID: 56945**

Agency Information

1. Title catchline:	Environmental Quality, Waste Management and Radiation Control, Waste Management	
Building:	MASOB	
Street address:	195 N. 1950 W.	
City, state:	Salt Lake City, Utah	
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Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R315-266. Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities

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

The EPA made technical corrections that correct or clarify parts of the hazardous waste regulations. Examples of the types of corrections being made include correcting typographical errors, correcting incorrect or outdated citations, updating outdated and incorrect wording, and updating addresses.
The EPA made revisions to Method 23 to incorporate true, comprehensive, and stable isotope dilution for quantifying target compounds using corresponding carbon-13 labeled compounds for each target compound including most of the polycyclic aromatic hydrocarbons (PAH), changing the method quality control from the current prescriptive format to a more flexible performance based approach with specified performance criteria, and expanding the list of target compounds to include PAH and polychlorinated biphenyls (PCB).
These changes are being made in the Utah Hazardous Waste Rules because Utah is authorized to oversee the hazardous waste program in Utah and must have rules that are equivalent to the federal regulations.

4. Summary of the new rule or change:

Language in Subsection R315-266-100(c)(3) is being amended to replace the term "conditionally exempt small quantity generator" with "very small quantity generator" and make other clarifying changes.
Reference to Method 23 is being added to Subsection R315-266-104(e)(1).
The citation to Section R315-261-5 found in Subsection R315-266-108(c) is being corrected to Section R315-262-14 and other clarifying changes are being made to this rule.
Language is being added to Subsections R315-266-502(d)(4) and R315-266-510(c)(4)(vi) to further clarify when non-creditable hazardous waste pharmaceuticals and non-hazardous non-creditable waste pharmaceuticals can be accumulated together in a container.
The word "returned" is being replaced with "rejected" in Subsections R315-266-502(h) and R315-266-510(c)(7).
The word "calendar" is being added in several locations in Subsections R315-266-502(h) and (i) and in Subsections R315-266-510(b) and (c) to clarify that the time periods are calendar days.
Language is being added to Subsection R315-266-503(b)(1) to define the word "control" for the purposes of Section R315-266-503.
The title of Section R315-266-504 is being amended to clarify that this section applies to healthcare facilities that are very small quantity generators that are not operating under Sections R315-266-500 through R315-266-510.
The third use of the term "healthcare facility" found in Subsection R315-266-504(b) is being changed to "generator" to clarify that a healthcare facility cannot send hazardous waste pharmaceuticals to another healthcare facility.
Section R315-266-506 is being amended to remove the term "take back event or program" and clarify that household waste pharmaceuticals are collected by an authorized collector.
Clarifying language is being added to Subsections R315-266-507(b), (c), and (d) to clarify that the rule applies to healthcare facilities operating under Sections R315-266-500 through R315-266-510.
Language is being added to Subsection R315-266-507(c) to further clarify what is considered an empty IV bag.
Language is being added to Subsections R315-266-508(a)(1)(iii)(C) and R315-266-510(c)(5) to clarify that hazardous waste numbers are the same as hazardous waste codes.
The term "or other entity" is being added to Subsection R315-266-510(a)(9)(i)(C) to clarify that the name and address of the healthcare facility or other entity that shipped the unauthorized waste must be included in the report.
The word "generator" is being replaced with "reverse distributor" in Subsection R315-266-510(c)(9)(ii)(B)(II)(1) because reverse distributor is correct.
Additionally, the Division is correcting formatting and typographical errors discovered during the process of reviewing and amending the rule.

Fiscal Information

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

A) State budget:

It is not anticipated that the amendments to this rule will cause any cost or savings to the state budget because they do not add any new or remove any existing requirements from the rule.

B) Local governments:

It is not anticipated that the amendments to this rule will cause any cost or savings to local governments because they do not add any new or remove any existing requirements from the rule.

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

It is not anticipated that the amendments to this rule will cause any cost or savings to small businesses that must comply with the rule because they do not add any new or remove any existing requirements from the rule.

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

It is not anticipated that the amendments to this rule will cause any cost or savings to non-small businesses that must comply with the rule because they do not add any new or remove any existing requirements from the rule.

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 amendments to this rule will cause any cost or savings to persons other than small businesses, non-small businesses, state or local government entities that must comply with the rule because they do not add any new or remove any existing requirements from the rule.

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

Because the changes to this rule do not add any new or remove any existing requirements from the rule it is not anticipated that there will be any new compliance costs for any affected persons due to the changes.

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	**FY2025**	**FY2026**	**FY2027**
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	**FY2025**	**FY2026**	**FY2027**
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 19-6-105	Section 19-6-106	

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:	12/31/2024

9. This rule change MAY become effective on:	01/13/2025
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Director	**Date:**	11/14/2024

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-266. Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities.
R315-266-100. Hazardous Waste Burned in Boilers and Industrial Furnaces -- Applicability.

(a) [~~The regulations of~~]Sections R315-266-100 through R315-266-112 apply to hazardous waste burned or processed in a boiler or industrial furnace, as defined in Section R315-260-10, irrespective of the purpose of burning or processing, except as provided by Subsections R315-266-100(b), R315-266-100(c), R315-266-100(d), R315-266-100(g), and R315-266-100(h). In Sections R315-266-100 through R315-266-112, the term "burn" means burning for energy recovery or destruction, or processing for materials recovery or as an ingredient. The emissions standards of S[~~ubs~~]ections R315-266-104, R315-266-105 through R315-266-107 apply to facilities operating under interim status or under a RCRA permit as specified in S[~~ubs~~]ections R315-266-102 and R315-266-103.

(b) Integration of the MACT standards.

(1) Except as provided by Subsections R315-266-100(b)(2), R315-266-100(b)(3), and R315-266-100(b)(4), the standards of Rule R315-266 do not apply to a new hazardous waste boiler or industrial furnace unit that becomes subject to [~~RCRA~~]hazardous waste permit requirements after October 12, 2005[~~:~~], or no longer apply [~~when~~]if an owner or operator of an existing hazardous waste boiler or industrial furnace unit demonstrates compliance with the maximum achievable control technology (MACT) requirements of Subsection R307-214-2(39), which incorporates 40 CFR 63, subpart EEE, by conducting a comprehensive performance test and submitting to the [~~Director~~]director a Notification of Compliance under 40 CFR 63.1207(j)[-] and 63.1210(d),which are incorporated by Subsection R307-214-2(29), documenting compliance with the requirements of Subsection R307-214-2(29), which incorporates 40 CFR 63, subpart EEE. Nevertheless, even after this demonstration of compliance with the MACT standards, RCRA permit conditions that were based on the standards of Rule R315-266 shall continue to be in effect until they are removed from the permit or the permit is terminated or revoked, unless the permit expressly provides otherwise.

(2) The following standards continue to apply:

(i) If [~~you~~]the owner or operator elects to comply with Subsection R315-270-235(a)(1)(i) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events, Subsection R315-266-102(e)(1) requiring operations in accordance with the operating requirements specified in the permit at [~~all~~]any time[~~s~~] that hazardous waste is in the unit, and Subsection R315-266-102(e)(2)(iii) requiring compliance with the emission standards and operating requirements during startup and shutdown if hazardous waste is in the combustion chamber, except for particular hazardous wastes. These provisions apply only during startup, shutdown, and malfunction events;

(ii) The closure requirements of Subsections R315-266-102(e)(11)[-] and R315-266-103(l);

(iii) The standards for direct transfer of Section R315-266-111;

(iv) The standards for regulation of residues of Section R315-266-112; and

(v) The applicable requirements of Sections R315-264-1 through R315-264-151, R315-264-1050 through R315-264-1065 and R315-264-1080 through R315-264-1090 and [~~40 CFR~~]R315-265[~~-~~]-1 through R315-265-150, R315-265-1050 through R315-265-1064, and R315-265-1080 through R315-265-1090[~~, which are adopted by reference~~].

(3) If [~~you~~]the owner or operator owns or operates a boiler or hydrochloric acid production furnace that is an area source under 40 CFR 63.2 and [~~you elect~~]the owner or operators elects not to comply with the emission standards under 40 CFR 63.1216, 63.1217, and 63.1218 for particulate matter, semivolatile and low volatile metals, and total chlorine, [~~you~~]the owner or operator also remains subject to:

(i) Section R315-266-105-Standards to control particulate matter;

(ii) Section R315-266-106-Standards to control metals emissions, except for mercury; and

(iii) Section R315-266-107-Standards to control hydrogen chloride and chlorine gas.

(4) The particulate matter standard of Section R315-266-105 remains in effect for boilers that elect to comply with the alternative to the particulate matter standard under 40 CFR 63.1216(e) and 63.1217(e).

(c) The following hazardous wastes and facilities are not subject to regulation under Sections R315-266-100 through R315-266-112:

(1) Used oil burned for energy recovery that is also a hazardous waste solely because it exhibits a characteristic of hazardous waste identified in Sections R315-261-20 through R315-261-24. [~~Such~~]This used oil is subject to regulation under Rule R315-15;

(2) Gas recovered from hazardous or solid waste landfills [~~when such~~]if the gas is burned for energy recovery;

(3) Hazardous wastes that are exempt from regulation under Section R315-261-4 and Subsections R315-261-6(a)(3)(iii) and R315-261-6(a)(3)(iv), and hazardous wastes that are subject to the [~~special requirements for conditionally exempt small quantity generators~~]conditions for exemption for very small quantity generators under Section R315-[~~261-5~~]262-14; and

(4) Coke ovens, if the only hazardous waste burned is EPA Hazardous Waste No. K087, decanter tank tar sludge from coking operations.

(d) Owners and operators of smelting, melting, and refining furnaces, including pyrometallurgical devices such as cupolas, sintering machines, roasters, and foundry furnaces, but not including cement kilns, aggregate kilns, or halogen acid furnaces burning hazardous waste, that process hazardous waste solely for metal recovery are conditionally exempt from regulation under Sections R315-266-100 through R315-266-112, except for Sections R315-266-101 and R315-266-112.

(1) To be exempt from Sections R315-266-102 through R315-266-111, an owner or operator of a metal recovery furnace or mercury recovery furnace shall comply with [~~the following requirements~~]Subsections R315-266-100(d)(1)(i) through R315-266-100(d)(1)(iii), except that an owner or operator of a lead or a nickel-chromium recovery furnace, or a metal recovery furnace that burns baghouse bags used to capture metallic dusts emitted by steel manufacturing, shall comply with the requirements of Subsection R315-266-100(d)(3), and owners or operators of lead recovery furnaces that are subject to regulation under the Secondary Lead Smelting NESHAP shall comply with the requirements of Subsection R315-266-100(h).

(i) Provide a one-time written notice to the [~~Director~~]director indicating the following:

(A) The owner or operator claims exemption under Subsection R315-266-100(d);

(B) The hazardous waste is burned solely for metal recovery consistent with [~~the provisions of~~]Subsection R315-266-100(d)(2);

(C) The hazardous waste contains recoverable levels of metals; and

(D) The owner or operator shall comply with the sampling and analysis and recordkeeping requirements of Subsection R315-266-100(d);

(ii) Sample and analyze the hazardous waste and other feedstocks as necessary to comply with the requirements of Subsection R315-266-100(d) by using appropriate methods; and

(iii) Maintain at the facility for at least three years records to document compliance with [~~the provisions of~~]Subsection R315-266-100(d) including limits on levels of toxic organic constituents and Btu value of the waste, and levels of recoverable metals in the hazardous waste compared to normal non-hazardous waste feedstocks.

(2) A hazardous waste meeting either of the following criteria is not processed solely for metal recovery:

(i) The hazardous waste has a total concentration of organic compounds listed in Rule R315-261, appendix VIII, exceeding 500 ppm by weight, as-fired, and so is considered to be burned for destruction. The concentration of organic compounds in a waste as-generated may be reduced to the 500 ppm limit by bona fide treatment that removes or destroys organic constituents. Blending for dilution to meet the 500 ppm limit is prohibited and documentation that the waste has not been impermissibly diluted shall be [~~retained~~]kept in the records required by Subsection R315-266-100(d)(1)(iii); or

(ii) The hazardous waste has a heating value of 5,000 Btu/lb or more, as-fired, and so is considered to be burned as fuel. The heating value of a waste as-generated may be reduced to below the 5,000 Btu/lb limit by bona fide treatment that removes or destroys organic constituents. Blending for dilution to meet the 5,000 Btu/lb limit is prohibited and documentation that the waste has not been impermissibly diluted shall be [~~retained~~]kept in the records required by Subsection R315-266-100(d)(1)(iii).

(3) To be exempt from Sections R315-266-102 through R315-266-111, an owner or operator of a lead or nickel-chromium or mercury recovery furnace, except for owners or operators of lead recovery furnaces subject to regulation under the Secondary Lead Smelting NESHAP, or a metal recovery furnace that burns baghouse bags used to capture metallic dusts emitted by steel manufacturing, shall provide a one-time written notice to the [~~Director~~]director identifying each hazardous waste burned and specifying whether the owner or operator claims an exemption for each waste under Subsection R315-266-100(d)(3) or [~~Subsection~~]R315-266-100(d)(1). The owners or operators shall comply with the requirements of Subsection R315-266-100(d)(1) for those wastes claimed to be exempt under Subsection R315-266-100(d)(1) and shall comply with the requirements [~~below~~]in Subsections R315-266-100(d)(3)(i) through R315-266-100(d)(3)(ii) for those wastes claimed to be exempt under Subsection R315-266-100(d)(3).

(i) The hazardous wastes listed in appendices XI, XII, and XIII, of Rule R315-266, and baghouse bags used to capture metallic dusts emitted by steel manufacturing are exempt from the requirements of Subsection R315-266-100(d)(1), [~~provided~~]except that:

(A) [~~A~~]a waste listed in appendix XI of Rule R315-266 shall contain recoverable levels of lead, a waste listed in appendix XII of Rule R315-266 shall contain recoverable levels of nickel or chromium, a waste listed in appendix XIII of Rule R315-266 shall contain recoverable levels of mercury and contain less than 500 ppm of Rule R315-261, appendix VIII organic constituents, and baghouse bags used to capture metallic dusts emitted by steel manufacturing shall contain recoverable levels of metal; and

(B) [~~T~~]the waste does not exhibit the Toxicity Characteristic of Section R315-261-24 for an organic constituent; and

(C) [~~T~~]the waste is not a hazardous waste listed in Sections R315-261-30 through R315-261-35 because it is listed for an organic constituent as identified in appendix VII of Rule R315-261; and

(D) The owner or operator certifies in the one-time notice that hazardous waste is burned under [~~the provisions of~~]Subsection R315-266-100(d)(3) and that sampling and analysis will be conducted or other information will be [~~obtained~~]collected as necessary to ensure continued compliance with these requirements. Sampling and analysis shall be conducted according to Subsection R315-266-100(d)(1)(ii) and records to document compliance with Subsection R315-266-100(d)(3) shall be kept for at least three years.

(ii) The [~~Director~~]director may decide on a case-by-case basis that the toxic organic constituents in a material listed in appendix XI, XII, or XIII of Rule R315-266 that contains a total concentration of more than 500 ppm toxic organic compounds listed in appendix VIII, of Rule R315-261, may pose a hazard to human health and the environment [~~when~~]if burned in a metal recovery furnace exempt from the requirements of Sections R315-266-100 through R315-266-112. In that situation, after adequate notice and opportunity for comment, the metal recovery furnace shall become subject to the requirements of Sections R315-266-100 through R315-266-112 when burning that material. In making the hazard determination, the [~~Director~~]director shall consider the following factors:

(A) The concentration and toxicity of organic constituents in the material; and

(B) The level of destruction of toxic organic constituents provided by the furnace; and

(C) Whether the acceptable ambient levels established in appendices IV or V of Rule R315-266 may be exceeded for any toxic organic compound that may be emitted based on dispersion modeling to predict the maximum annual average off-site ground level concentration.

(e) The standards for direct transfer operations under Section R315-266-111 apply only to facilities subject to the permit standards of Section R315-266-102 or the interim status standards of Section R315-266-103.

(f) The management standards for residues under Section R315-266-112 apply to any boiler or industrial furnace burning hazardous waste.

(g) Owners and operators of smelting, melting, and refining furnaces, including pyrometallurgical devices such as cupolas, sintering machines, roasters, and foundry furnaces, that process hazardous waste for recovery of economically significant amounts of the precious metals gold, silver, platinum, palladium, iridium, osmium, rhodium, or ruthenium, or any combination of these are conditionally exempt from regulation under Sections R315-266-100 through R315-266-111. To be exempt from Sections R315-266-101 through R315-266-111, an owner or operator shall:

(1) [~~P~~]provide a one-time written notice to the [~~Director~~]director indicating that[~~the following~~]:

(i) [~~T~~]the owner or operator claims exemption under Subsection R315-266-100(g);

(ii) [~~T~~]the hazardous waste is burned for legitimate recovery of precious metal; and

(iii) [~~T~~]the owner or operator shall comply with the sampling and analysis and recordkeeping requirements of Subsection R315-266-100(g); and

(2) [~~S~~]sample and analyze the hazardous waste as necessary to document that the waste contains economically significant amounts of the metals and that the treatment recovers economically significant amounts of precious metal; and

(3) [~~M~~]maintain at the facility for at least three years records to document that [~~all~~]the hazardous wastes burned are burned for recovery of economically significant amounts of precious metal.

(h) Starting June 23, 1997, owners or operators of lead recovery furnaces that process hazardous waste for recovery of lead and that are subject to regulation under the Secondary Lead Smelting NESHAP, are conditionally exempt from regulation under Sections R315-266-100 through R315-266-112, except for S[~~ubs~~]ection R315-266-101. To be exempt, an owner or operator shall provide a one-time notice to the [~~Director~~]director identifying each hazardous waste burned and specifying that the owner or operator claims an exemption under Subsection R315-266-100(h). The notice also shall state that the waste burned has a total concentration of non-metal compounds listed in Rule R315-261, appendix VIII, of less than 500 ppm by weight, as[-]-fired and as provided in Subsection R315-266-100(d)(2)(i), or is listed in appendix XI to Rule R315-266.

R315-266-104. Hazardous Waste Burned in Boilers and Industrial Furnaces -- Standards to Control Organic Emissions.

(a) DRE standard

(1) General. Except as provided in Subsection R315-266-104(a)(3), a boiler or industrial furnace burning hazardous waste shall achieve a destruction and removal efficiency (DRE)[-] of 99.99% for [~~all~~]any organic hazardous constituents in the waste feed. To demonstrate conformance with this requirement, 99.99% DRE shall be demonstrated during a trial burn for each principal organic hazardous constituent (POHC)[-] designated, under Subsection R315-266-104(a)(2), in its permit for each waste feed. DRE is determined for each POHC from the following equation:

$DRE = (1-W_{out}/W_{in})X100$

where:

W_{in} = Mass feed rate of one principal organic hazardous constituent (POHC) in the hazardous waste fired to the boiler or industrial furnace; and

W_{out} = Mass emission rate of the [~~same~~]POHC present in stack gas [~~prior to~~]before release to the atmosphere.

(2) Designation of POHCs. Principal organic hazardous constituents (POHCs) are those compounds for which compliance with the DRE requirements of Section R315-266-104 shall be demonstrated in a trial burn in conformance with procedures prescribed in Section R315-270-66. One or more POHCs shall be designated by the [~~Director~~]director for each waste feed to be burned. POHCs shall be designated based on the degree of difficulty of destruction of the organic constituents in the waste and on their concentrations or mass in the waste feed considering the results of waste analyses submitted with part B of the permit application. POHCs are most likely to be selected from among those compounds listed in Rule R315-261, appendix VIII that are also present in the normal waste feed. However, if the applicant demonstrates to the [~~Director's~~]director's satisfaction that a compound not listed in Rule R315-261, appendix VIII or not present in the normal waste feed is a suitable indicator of compliance with the DRE requirements of Section R315-266-104, that compound may be designated as a POHC. [~~Such~~]These POHCs need not be toxic or organic compounds.

(3) Dioxin-listed waste. A boiler or industrial furnace burning hazardous waste containing, or derived from, EPA Hazardous Wastes Nos. F020, F021, F022, F023, F026, or F027 shall achieve a destruction and removal efficiency (DRE) of 99.9999% for each POHC designated, under Subsection R315-266-104(a)(2), in its permit. This performance shall be demonstrated on POHCs that are more difficult to burn than tetra-, penta-, and hexachlorodibenzo-p-dioxins and dibenzofurans. DRE is determined for each POHC from the equation in Subsection R315-266-104(a)(1). In addition, the owner or operator of the boiler or industrial furnace shall notify the [~~Director~~]director of intent to burn EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, or F027.

(4) Automatic waiver of DRE trial burn. Owners and operators of boilers operated under the special operating requirements provided by Section R315-266-110 are considered to be in compliance with the DRE standard of Subsection R315-266-104(a)(1) and are exempt from the DRE trial burn.

(5) Low risk waste. Owners and operators of boilers or industrial furnaces that burn hazardous waste in compliance with the requirements of Subsection R315-266-109(a) are considered to be in compliance with the DRE standard of Subsection R315-266-104(a)(1) and are exempt from the DRE trial burn.

(b) Carbon monoxide standard.

(1) Except as provided in Subsection R315-266-104(c), the stack gas concentration of carbon monoxide (CO) from a boiler or industrial furnace burning hazardous waste cannot exceed 100 ppmv on an hourly rolling average basis, [~~i.e.~~]that is, over any 60 minute period, continuously corrected to 7% [~~percent~~]oxygen, dry gas basis.

(2) CO and oxygen shall be continuously monitored in conformance with "Performance Specifications for Continuous Emission Monitoring of Carbon Monoxide and Oxygen for Incinerators, Boilers, and Industrial Furnaces Burning Hazardous Waste" in appendix IX of Rule R315-266.

(3) Compliance with the 100 ppmv CO limit shall be demonstrated during the trial burn, for new facilities or an interim status facility applying for a permit, or the compliance test, for interim status facilities. To demonstrate compliance, the highest hourly rolling average CO level during any valid run of the trial burn or compliance test [~~shall~~]may not exceed 100 ppmv.

(c) Alternative carbon monoxide standard.

(1) The stack gas concentration of carbon monoxide (CO) from a boiler or industrial furnace burning hazardous waste may exceed the 100 ppmv limit [~~provided~~]except that stack gas concentrations of hydrocarbons (HC) do not exceed 20 ppmv, except as provided by Subsection R315-266-104(f) for certain industrial furnaces.

(2) HC limits shall be established under Section R315-266-104 on an hourly rolling average basis, [~~i.e.~~]that is, over any 60 minute period, reported as propane, and continuously corrected to 7% [~~percent~~]oxygen, dry gas basis.

(3) HC shall be continuously monitored in conformance with "Performance Specifications for Continuous Emission Monitoring of Hydrocarbons for Incinerators, Boilers, and Industrial Furnaces Burning Hazardous Waste" in appendix IX of Rule R315-266. CO and oxygen shall be continuously monitored in conformance with Subsection R315-266-104(b)(2).

(4) The alternative CO standard is established based on CO data during the trial burn, for a new facility, and the compliance test, for an interim status facility. The alternative CO standard is the average over [~~all~~]each valid run[~~s~~] of the highest hourly average CO level for each run. The CO limit is implemented on an hourly rolling average basis, and continuously corrected to 7% [~~percent~~]oxygen, dry gas basis.

(d) Special requirements for furnaces. Owners and operators of industrial furnaces, [~~e.g.~~]for example, kilns or cupolas, that feed hazardous waste for a purpose other than solely as an ingredient, see [~~Section~~]Subsection R315-266-103(a)(5)(ii), at any location other than the end where products are normally discharged and where fuels are normally fired shall comply with the hydrocarbon limits provided by Subsection[~~s~~] R315-266-104(c) or R315-266-104(f) irrespective of whether stack gas CO concentrations meet the 100 ppmv limit of Subsection R315-266-104(b).

(e) Controls for dioxins and furans. Owners and operators of boilers and industrial furnaces that are equipped with a dry particulate matter control device that operates within the temperature range of 450-750 °F, and industrial furnaces operating under an alternative hydrocarbon limit established under Subsection R315-266-104(f) shall conduct a site-specific risk assessment [~~as follows~~]to demonstrate that emissions of chlorinated dibenzo-p-dioxins and dibenzofurans do not result in an increased lifetime cancer risk to the hypothetical maximum exposed individual (MEI) exceeding 1 in 100,000 as follows:

(1) During the trial burn, for new facilities or an interim status facility applying for a permit, or compliance test, for interim status facilities, determine emission rates of the tetra-octa congeners of chlorinated dibenzo-p-dioxins and dibenzofurans (CDDs/CDFs) using Method 0023A, Sampling Method for Polychlorinated Dibenzo-p-Dioxins and Polychlorinated Dibenzofurans Emissions from Stationary Sources, EPA Publication SW-846, as incorporated by reference in Section R315-260-11 or Method 23, provided in Appendix A-7 of 40 CFR Part 60.

(2) Estimate the 2,3,7,8-TCDD toxicity equivalence of the tetra-octa CDDs/CDFs congeners using "Procedures for Estimating the Toxicity Equivalence of Chlorinated Dibenzo-p-Dioxin and Dibenzofuran Congeners" in appendix IX of Rule R315-266. Multiply the emission rates of CDD/CDF congeners with a toxicity equivalence greater than zero, see the procedure, by the calculated toxicity equivalence factor to estimate the equivalent emission rate of 2,3,7,8-TCDD[~~;~~].

(3) Conduct dispersion modeling using methods recommended in appendix W of 40 CFR 51, [~~(~~]"Guideline on Air Quality Models (Revised)," [~~(~~]1986[~~)~~], and its supplements[~~)~~], the "Hazardous Waste Combustion Air Quality Screening Procedure", provided in appendix IX of Rule R315-266, or in Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised, incorporated by reference in Section R315-260-11, to predict the maximum annual average off-site ground level concentration of 2,3,7,8-TCDD equivalents determined under Subsection R315-266-104(e)(2). The maximum annual average concentration shall be used [~~when~~]if a person resides on-site[~~; and~~].

(4) The ratio of the predicted maximum annual average ground level concentration of 2,3,7,8-TCDD equivalents to the risk-specific dose for 2,3,7,8-TCDD provided in appendix V of Rule R315-266, 2.2[~~H~~]x10[~~17~~]$^{-7}$, [~~shall~~]may not exceed 1.0.

(f) Monitoring CO and HC in the by-pass duct of a cement kiln. Cement kilns may comply with the carbon monoxide and hydrocarbon limits provided by Subsections R315-266-104(b), R315-266-104(c), and R315-266-104(d) by monitoring in the by-pass duct [~~provided~~]except that:

(1) [~~H~~]hazardous waste is fired only into the kiln and not at any location downstream from the kiln exit relative to the direction of gas flow; and

(2) [~~T~~]the by-pass duct diverts a minimum of 10% of kiln off-gas into the duct.

(g) Use of emissions test data to demonstrate compliance and establish operating limits. Compliance with the requirements of Section R315-266-104 shall be demonstrated simultaneously by emissions testing or during separate runs under identical operating conditions. Further, data to demonstrate compliance with the CO and HC limits of Section R315-266-104 or to establish alternative CO or HC limits under Section R315-266-104 shall be [~~obtained~~]collected during the time that DRE testing, and [~~where~~]if applicable, CDD/CDF testing under Subsection R315-266-104(e) and comprehensive organic emissions testing under Subsection R315-266-104(f) is conducted.

(h) Enforcement. For the purposes of permit enforcement, compliance with the operating requirements specified in the permit, under Section R315-266-102, shall be regarded as compliance with Section R315-266-104. However, evidence that compliance with those permit conditions is insufficient to ensure compliance with the requirements of Section R315-266-104 may be "information" justifying modification or revocation and re-issuance of a permit under Section R315-270-41.

R315-266-108. Hazardous Waste Burned in Boilers and Industrial Furnaces -- Small Quantity On-Site Burner Exemption.

(a) Exempt quantities. Owners and operators of facilities that burn hazardous waste in an on-site boiler or industrial furnace are exempt from the requirements of Sections R315-266-100 through R315-266-112 [~~provided~~]except that:

(1) [~~T~~]the quantity of hazardous waste burned in a device for a calendar month does not exceed the limits provided in the following table based on the terrain-adjusted effective stack height as defined in Subsection R315-266-106(b)(3):

Table Exempt Quantities for Small Quantity Burner Exemption	
Terrain-adjusted effective stack height of device in meters	Allowable hazardous waste burning rate, gallons per month
0 to 3.9	0
4.0 to 5.9	13
6.0 to 7.9	18
8.0 to 9.9	27
10.0 to 11.9	40
12.0 to 13.9	48
14.0 to 15.9	59
16.0 to 17.9	69
18.0 to 19.9	76
20.0 to 21.9	84
22.0 to 23.9	93
24.0 to 25.9	100
26.0 to 27.9	110
28.0 to 29.9	130
30.0 to 34.9	140
35.0 to 39.9	170
40.0 to 44.9	210
45.0 to 49.9	260
50.0 to 54.9	330
55.0 to 59.9	400
60.0 to 64.9	490
65.0 to 69.9	610
70.0 to 74.9	680
75.0 to 79.9	760
80.0 to 84.9	850
85.0 to 89.9	960
90.0 to 94.9	1100
95.0 to 99.9	1200
100.0 to 104.9	1300
105.0 to 109.9	1500
110.0 to 114.9	1700
115.0 or greater	1900

~~[Table~~
~~Exempt Quantities for Small Quantity Burner Exemption~~

~~Terrain-adjusted effective stack height of device (meters) — Allowable hazardous waste burning rate(gallons/month)~~

~~0 to 3.9 — 0~~
~~4.0 to 5.9 — 13~~
~~6.0 to 7.9 — 18~~
~~8.0 to 9.9 — 27~~
~~10.0 to 11.9 — 40~~
~~12.0 to 13.9 — 48~~
~~14.0 to 15.9 — 59~~
~~16.0 to 17.9 — 69~~
~~18.0 to 19.9 — 76~~
~~20.0 to 21.9 — 84~~
~~22.0 to 23.9 — 93~~
~~24.0 to 25.9 — 100~~
~~26.0 to 27.9 — 110~~
~~28.0 to 29.9 — 130~~

~~30.0 to 34.9 140~~
~~35.0 to 39.9 170~~
~~40.0 to 44.9 210~~
~~45.0 to 49.9 260~~
~~50.0 to 54.9 330~~
~~55.0 to 59.9 400~~
~~60.0 to 64.9 490~~
~~65.0 to 69.9 610~~
~~70.0 to 74.9 680~~
~~75.0 to 79.9 760~~
~~80.0 to 84.9 850~~
~~85.0 to 89.9 960~~
~~90.0 to 94.9 1,100~~
~~95.0 to 99.9 1,200~~
~~100.0 to 104.9 1,300~~
~~105.0 to 109.9 1,500~~
~~110.0 to 114.9 1,700~~
~~115.0 or greater 1,900~~
]

(2) [~~T~~]the maximum hazardous waste firing rate does not exceed at any time 1% [~~percent~~]of the total fuel requirements for the device, hazardous waste plus other fuel, on a total heat input or mass input basis, whichever results in the lower mass feed rate of hazardous waste[~~.~~];

(3) [~~T~~]the hazardous waste has a minimum heating value of 5,000 Btu/lb, as generated; and

(4) [~~T~~]the hazardous waste fuel does not contain, and is not derived from, EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, or F027.

(b) Mixing with non-hazardous fuels. If hazardous waste fuel is mixed with a non-hazardous fuel, the quantity of hazardous waste before [~~such~~]the mixing is used to comply with Subsection R315-266-108(a).

(c) Multiple stacks. If an owner or operator burns hazardous waste in more than one on-site boiler or industrial furnace exempt under Section R315-266-108, the quantity limits provided by Subsection R315-266-108(a)(1) are implemented according to the following equation:

The summation of Actual Quantity $Burned_{(i)}$/Allowable quantity $Burned_{(i)}$ for i = 1 to n is less than or equal to 1.0

where:

n means the number of stacks;

Actual Quantity Burned means the waste quantity burned per month in device "i";

Allowable Quantity Burned means the maximum allowable exempt quantity for stack "i" from the table in Subsection R315-266-108(a)(1).

(1) Hazardous wastes that are subject to the conditions for exemption for very[~~special requirements for~~] small quantity generators under Section [~~R315-261-5~~]R315-262-14 may be burned in an off-site device under the exemption provided by Section R315-266-108, but shall be included in the quantity determination for the exemption.

(d) Notification requirements. The owner or operator of facilities qualifying for the small quantity burner exemption under Section R315-266-108 shall provide a one-time signed, written notice to the [~~Director~~]director indicating the following:

(1) The combustion unit is operating as a small quantity burner of hazardous waste;

(2) The owner and operator are in compliance with the requirements of Section R315-266-108; and

(3) The maximum quantity of hazardous waste that the facility may burn per month as provided by Subsection R315-266-108(a)(1).

(e) Recordkeeping requirements. The owner or operator shall maintain at the facility for at least three years sufficient records documenting compliance with the hazardous waste quantity, firing rate, and heating value limits of Section R315-266-108. At a minimum, these records shall [~~indicate~~]state the quantity of hazardous waste and other fuel burned in each unit per calendar month, and the heating value of the hazardous waste.

R315-266-501. Hazardous Waste Pharmaceuticals -- Applicability.

(a) A healthcare facility that is a very small quantity generator when counting its hazardous waste, including both its hazardous waste pharmaceuticals and its non-pharmaceutical hazardous waste, remains subject to Section R315-262-14 and is not subject to Sections R315-266-500 through R315-266-510, except for Sections R315-266-505 and R315-266-507 and the optional [~~provisions~~]requirements of Section R315-266-504.

(b) A healthcare facility that is a very small quantity generator when counting its hazardous waste, including both its hazardous waste pharmaceuticals and its non-pharmaceutical hazardous waste, has the option of complying with Subsection R315-266-501(d) for the management of its hazardous waste pharmaceuticals as an alternative to complying with Section R315-262-14 and the optional [~~provisions~~]requirements of Section R315-266-504.

(c) A healthcare facility or reverse distributor remains subject to the applicable hazardous waste rules with respect to the management of its non-pharmaceutical hazardous waste.

(d) With the exception of healthcare facilities identified in Subsection R315-266-501(a), a healthcare facility is subject to [~~the following~~]Subsections R315-266-501(d)(1) and R315-266-501(d)(2) in lieu of Rules R315-262 through R315-265:

(1) Sections R315-266-502 and R315-266-505 through R315-266-508 with respect to the management of:

(i) non-creditable hazardous waste pharmaceuticals; and

(ii) potentially creditable hazardous waste pharmaceuticals if they are not destined for a reverse distributor.

(2) Subsection[~~s~~] R315-266-502(a), and Sections R315-266-503, R315-266-505 through R315-266-507 and R315-266-509 with respect to the management of potentially creditable hazardous waste pharmaceuticals that are prescription pharmaceuticals and are destined for a reverse distributor.

(e) A reverse distributor is subject to Sections R315-266-505 through R315-266-510 in lieu of Rules R315-262 through R315-265 with respect to the management of hazardous waste pharmaceuticals.

(f) Hazardous waste pharmaceuticals generated or managed by entities other than healthcare facilities and reverse distributors, that is pharmaceutical manufacturers and reverse logistics centers, are not subject to Sections R315-266-500 through R315-266-510. Other generators are subject to Rule R315-262 for the generation and accumulation of hazardous wastes, including hazardous waste pharmaceuticals.

(g) The following are not subject to Rules R315-260 through R315-273, except as specified:

(1) Pharmaceuticals that are not solid waste, as defined by Section R315-261-2, because they are legitimately used or reused, for example, lawfully donated for their intended purpose, or reclaimed.

(2) Over-the-counter pharmaceuticals, dietary supplements, or homeopathic drugs that are not solid wastes, as defined by Section R315-261-2, because they have a reasonable expectation of being legitimately used or reused, for example, lawfully redistributed for their intended purpose, or reclaimed.

(3) Pharmaceuticals being managed in accordance with a recall strategy that has been approved by the Food and Drug Administration in accordance with 21 CFR part 7 subpart C. Sections R315-266-500 through R315-266-510 do apply to the management of the recalled hazardous waste pharmaceuticals after the Food and Drug Administration approves the destruction of the recalled items.

(4) Pharmaceuticals being managed in accordance with a recall corrective action plan that has been accepted by the Consumer Product Safety Commission in accordance with 16 CFR part 1115. Sections R315-266-500 through R315-266-510 do apply to the management of the recalled hazardous waste pharmaceuticals after the Consumer Product Safety Commission approves the destruction of the recalled items.

(5) Pharmaceuticals stored according to a preservation order, or during an investigation or judicial proceeding until after the preservation order, investigation, or judicial proceeding has concluded or a decision is made to discard the pharmaceuticals or both.

(6) Investigational new drugs for which an investigational new drug application is in effect in accordance with the Food and Drug Administration's regulations in 21 CFR part 312. Sections R315-266-500 through R315-266-510 do apply to the management of the investigational new drug after the decision is made to discard the investigational new drug or the Food and Drug Administration approves the destruction of the investigational new drug, if the investigational new drug is a hazardous waste.

(7) Household waste pharmaceuticals, including those that have been collected by an authorized collector, as defined by the Drug Enforcement Administration, provided the authorized collector complies with the conditional exemption in Subsections R315-266-506(a)(2) and R315-266-506(b).

R315-266-502. Hazardous Waste Pharmaceuticals -- Standards for Healthcare Facilities Managing Non-Creditable Hazardous Waste Pharmaceuticals.

(a) Notification and withdrawal from Sections R315-266-500 through R315-266-510 for healthcare facilities managing hazardous waste pharmaceuticals.

(1) Notification. A healthcare facility shall notify the [~~Director~~]director, using the Site Identification Form, EPA Form 8700-12, that it is a healthcare facility operating under Sections R315-266-500 through R315-266-510. A healthcare facility is not required to fill out Box 10.B., Waste Codes for Federally Regulated Hazardous Waste, of the Site Identification Form with respect to its hazardous waste pharmaceuticals. A healthcare facility shall submit a separate notification, Site Identification Form, for each site or EPA identification number.

(i) A healthcare facility that already has an EPA identification number shall notify the [~~Director~~]director, using the Site Identification Form, EPA Form 8700-12, that it is a healthcare facility as part of its next Biennial Report, if it is required to submit one[~~;~~], or if not required to submit a Biennial Report, within 60 days of the effective date of Sections R315-266-500 through R315-266-510, or within 60 days of becoming subject to Sections R315-266-500 through R315-266-510.

(ii) A healthcare facility that does not have an EPA identification number shall [~~obtain~~]get one by notifying the [~~Director~~]director, using the Site Identification Form, EPA Form 8700-12, that it is a healthcare facility as part of its next Biennial Report, if it is required to submit one[~~;~~], or if not required to submit a Biennial Report, within 60 days of the effective date of Sections R315-266-500 through R315-266-510, or within 60 days of becoming subject to Sections R315-266-500 through R315-266-510.

(iii) A healthcare facility shall keep a copy of its notification on file for as long as the healthcare facility is subject to Sections R315-266-500 through R315-266-510.

(2) Withdrawal. A healthcare facility that operated under Sections R315-266-500 through R315-266-510 but is no longer subject to Sections R315-266-500 through R315-266-510, because it is a very small quantity generator under Section R315-262-14, and elects to withdraw from Sections R315-266-500 through R315-266-510, shall notify the [~~Director~~]director using the Site Identification Form, EPA Form 8700-12, that it is no longer operating under Sections R315-266-500 through R315-266-510. A healthcare facility is not required to fill out Box 10.B., Waste Codes for Federally Regulated Hazardous Waste, of the Site Identification Form with respect to its hazardous waste pharmaceuticals. A healthcare facility shall submit a separate notification, Site Identification Form, for each EPA identification number.

(i) A healthcare facility shall submit the Site Identification Form notifying that it is withdrawing from Sections R315-266-500 through R315-266-510 before it begins operating under the conditional exemption of Section R315-262-14.

(ii) A healthcare facility shall keep a copy of its withdrawal on file for three years from the date of signature on the notification of its withdrawal.

(b) Training of personnel managing non-creditable hazardous waste pharmaceuticals at healthcare facilities. A healthcare facility shall ensure that any personnel that manage non-creditable hazardous waste pharmaceuticals are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies.

(c) Hazardous waste determination for non-creditable pharmaceuticals. A healthcare facility that generates a solid waste that is a non-creditable pharmaceutical shall determine whether that pharmaceutical is a hazardous waste pharmaceutical, for example, it exhibits a characteristic identified in Sections R315-261-20 through R315-261-24 or is listed in Sections R315-261-30 through R315-261-35, [~~in order~~]to determine whether the waste is subject to Sections R315-266-500 through R315-266-510. A healthcare facility may choose to manage its non-hazardous waste pharmaceuticals as non-creditable hazardous waste pharmaceuticals under Sections R315-266-500 through R315-266-510.

(d) Standards for containers used to accumulate non-creditable hazardous waste pharmaceuticals at healthcare facilities.

(1) A healthcare facility shall place non-creditable hazardous waste pharmaceuticals in a container that is structurally sound, compatible with its contents, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(2) A healthcare facility that manages ignitable or reactive non-creditable hazardous waste pharmaceuticals, or that mixes or commingles incompatible non-creditable hazardous waste pharmaceuticals shall manage the container so that it does not have the potential to:

(i) generate extreme heat or pressure, fire or explosion, or violent reaction;

(ii) produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health;

(iii) produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions;

(iv) damage the structural integrity of the container of non-creditable hazardous waste pharmaceuticals; or

(v) through other like means threaten human health or the environment.

(3) A healthcare facility shall keep containers of non-creditable hazardous waste pharmaceuticals closed and secured in a manner that prevents unauthorized access to its contents.

(4) A healthcare facility may accumulate non-creditable hazardous waste pharmaceuticals and non-hazardous non-creditable waste pharmaceuticals in a container together, except that non-creditable hazardous waste pharmaceuticals prohibited from being combusted because of the dilution prohibition of Subsection R315-268-3(c), that is, metal-bearing waste codes listed in Section R315-268-57, unless one or more criteria in Subsections R315-268-3(c)(1) through R315-268-3(c)(6) are met, or because it is prohibited from being lab packed due to Subsection R315-268-42(c), that is, waste codes listed in Section R315-268-53, shall be accumulated in separate containers and labeled with the applicable EPA hazardous waste numbers, in other words the hazardous waste codes.

(e) Labeling containers used to accumulate non-creditable hazardous waste pharmaceuticals at healthcare facilities. A healthcare facility shall label or clearly mark each container of non-creditable hazardous waste pharmaceuticals with the phrase "Hazardous Waste Pharmaceuticals".

(f) Maximum accumulation time for non-creditable hazardous waste pharmaceuticals at healthcare facilities.

(1) A healthcare facility may accumulate non-creditable hazardous waste pharmaceuticals on-site for one year or less without a permit or having interim status.

(2) A healthcare facility that accumulates non-creditable hazardous waste pharmaceuticals on-site shall demonstrate the length of time that the non-creditable hazardous waste pharmaceuticals have been accumulating, starting from the date it first becomes a waste. A healthcare facility may make this demonstration by any of the following methods:

(i) marking or labeling the container of non-creditable hazardous waste pharmaceuticals with the date that the non-creditable hazardous waste pharmaceuticals became a waste;

(ii) maintaining an inventory system that identifies the date the non-creditable hazardous waste pharmaceuticals being accumulated first became a waste; or

(iii) placing the non-creditable hazardous waste pharmaceuticals in a specific area and identifying the earliest date that any of the non-creditable hazardous waste pharmaceuticals in the area became a waste.

(g) Land disposal restrictions for non-creditable hazardous waste pharmaceuticals. The non-creditable hazardous waste pharmaceuticals generated by a healthcare facility are subject to the land disposal restrictions of Rule R315-268. A healthcare facility that generates non-creditable hazardous waste pharmaceuticals shall comply with the land disposal restrictions in accordance with Subsection R315-268-7(a) requirements, except that it is not required to identify the hazardous waste numbers, in other words the hazardous waste codes, on the land disposal restrictions notification.

(h) Procedures for healthcare facilities for managing rejected shipments of non-creditable hazardous waste pharmaceuticals. A healthcare facility that sends a shipment of non-creditable hazardous waste pharmaceuticals to a designated facility with the understanding that the designated facility can accept and manage the waste, and later receives that shipment back as a rejected load in accordance with the manifest discrepancy [~~provisions~~]requirements of Section R315-264-72 or R315-265-72 may accumulate the [~~returned~~]rejected non-creditable hazardous waste pharmaceuticals on-site for up to an additional 90 calendar days provided the rejected [~~or returned~~]shipment is managed in accordance with Subsections R315-266-502(d) and R315-266-502(e). Upon receipt of the [~~returned~~]rejected shipment, the healthcare facility shall:

(1) sign either:

(i) item 18c of the original manifest, if the original manifest was used for the returned shipment; or

(ii) item 20 of the new manifest, if a new manifest was used for the returned shipment;

(2) provide the transporter a copy of the manifest;

(3) within 30 calendar days of receipt of the rejected shipment, send a copy of the manifest to the designated facility that returned the shipment to the healthcare facility; and

(4) within 90 calendar days of receipt of the rejected shipment, transport or offer for transport the returned shipment in accordance with the shipping standards of Subsection R315-266-508(a).

(i) Reporting by healthcare facilities for non-creditable hazardous waste pharmaceuticals.

(1) Biennial reporting by healthcare facilities. Healthcare facilities are not subject to biennial reporting requirements under Section R315-262-41, with respect to non-creditable hazardous waste pharmaceuticals managed under Sections R315-266-500 through R315-266-510.

(2) Exception reporting by healthcare facilities for a missing copy of the manifest.

(i) For shipments from a healthcare facility to a designated facility:

(A) If a healthcare facility does not receive a copy of the manifest with the signature of the owner or operator of the designated facility within 60 calendar days of the date the non-creditable hazardous waste pharmaceuticals were accepted by the initial transporter, the healthcare facility shall submit:

(I) a legible copy of the original manifest, indicating that the healthcare facility has not received confirmation of delivery, to the [~~Director~~]director; and

(II) a handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the return copy was not received and explaining the efforts taken to locate the non-creditable hazardous waste pharmaceuticals and the results of those efforts.

(B) Reserved.

(ii) For shipments rejected by the designated facility and shipped to an alternate facility[~~.~~]:

(A) If a healthcare facility does not receive a copy of the manifest for a rejected shipment of the non-creditable hazardous waste pharmaceuticals that is forwarded by the designated facility to an alternate facility, using appropriate manifest procedures, with the signature of the owner or operator of the alternate facility, within 60 calendar days of the date the non-creditable hazardous waste was accepted by the initial transporter forwarding the shipment of non-creditable hazardous waste pharmaceuticals from the designated facility to the alternate facility, the healthcare facility shall submit:

(I) [~~A~~]a legible copy of the original manifest, indicating that the healthcare facility has not received confirmation of delivery, to the [~~Director~~]director; and

(II) [~~A~~]a handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the return copy was not received and explaining the efforts taken to locate the non-creditable hazardous waste pharmaceuticals and the results of those efforts.

(B) Reserved.

(3) Additional reports. The [~~Director~~]director may require healthcare facilities to furnish additional reports concerning the quantities and disposition of non-creditable hazardous waste pharmaceuticals.

(j) Recordkeeping by healthcare facilities for non-creditable hazardous waste pharmaceuticals.

(1) A healthcare facility shall keep a copy of each manifest signed in accordance with Subsection R315-262-23(a) for three years or until it receives a signed copy from the designated facility [~~which~~]that received the non-creditable hazardous waste pharmaceuticals. This signed copy shall be [~~retained~~]kept as a record for at least three years from the date the waste was accepted by the initial transporter.

(2) A healthcare facility shall keep a copy of each exception report for a period of at least three years from the date of the report.

(3) A healthcare facility shall keep records of any test results, waste analyses, or other determinations made to support its hazardous waste determinations consistent with Subsection R315-262-11(f), for at least three years from the date the waste was last sent to on-site or off-site treatment, storage or disposal. A healthcare facility that manages its non-creditable non-hazardous waste pharmaceuticals as non-creditable hazardous waste pharmaceuticals is not required to keep documentation of hazardous waste determinations.

(4) The periods of retention referred to in Section R315-266-502 are extended automatically during [~~the course of~~]any unresolved enforcement action regarding the regulated activity, or as requested by the [~~Director~~]director.

(5) Records shall be readily available upon request by an inspector.

(k) Response to spills of non-creditable hazardous waste pharmaceuticals at healthcare facilities. A healthcare facility shall immediately contain any spills of non-creditable hazardous waste pharmaceuticals and manage the spill clean-up materials as non-creditable hazardous waste pharmaceuticals in accordance with the requirements of Sections R315-266-500 through R315-266-510.

(l) Accepting non-creditable hazardous waste pharmaceuticals from an off-site healthcare facility that is a very small quantity generator. A healthcare facility may accept non-creditable hazardous waste pharmaceuticals from an off-site healthcare facility that is a very small quantity generator under Section R315-262-14, without a permit or without having interim status, provided the receiving healthcare facility:

(1) is under the control of the [~~same~~]person, as defined in Section R315-260-10, [~~as~~]that controls the very small quantity generator healthcare facility that is sending the non-creditable hazardous waste pharmaceuticals off-site, "control," for the purposes of Section R315-266-502, means the power to direct the policies of the healthcare facility, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate healthcare facilities on behalf of a different person as defined in Section R315-260-10 [~~shall~~]may not be [~~deemed~~]considered to "control" [~~such~~]the healthcare facilities, or has a contractual or other documented business relationship whereby the receiving healthcare facility supplies pharmaceuticals to the very small quantity generator healthcare facility;

(2) is operating under Sections R315-266-500 through R315-266-510 for the management of its non-creditable hazardous waste pharmaceuticals;

(3) manages the non-creditable hazardous waste pharmaceuticals that it receives from off site in compliance with Sections R315-266-500 through R315-266-510; and

(4) keeps records of the non-creditable hazardous waste pharmaceuticals shipments it receives from off site for three years from the date that the shipment is received.

R315-266-503. Hazardous Waste Pharmaceuticals -- Standards for Healthcare Facilities Managing Potentially Creditable Hazardous Waste Pharmaceuticals.

(a) Hazardous waste determination for potentially creditable pharmaceuticals. A healthcare facility that generates a solid waste that is a potentially creditable pharmaceutical shall determine whether the potentially creditable pharmaceutical is a potentially creditable hazardous waste pharmaceutical, for example, it is listed in Sections R315-261-30 through R315-261-35 or exhibits a characteristic identified in Sections

R315-261-20 through R315-261-24. A healthcare facility may choose to manage its potentially creditable non-hazardous waste pharmaceuticals as potentially creditable hazardous waste pharmaceuticals under Sections R315-266-500 through R315-266-510.

(b) Accepting potentially creditable hazardous waste pharmaceuticals from an off-site healthcare facility that is a very small quantity generator. A healthcare facility may accept potentially creditable hazardous waste pharmaceuticals from an off-site healthcare facility that is a very small quantity generator under Section R315-262-14, without a permit or without having interim status, provided the receiving healthcare facility:

(1) is under the control of the [~~same~~]person, as defined in Section R315-260-10, [~~as~~]that controls the very small quantity generator healthcare facility that is sending the potentially creditable hazardous waste pharmaceuticals off site, "control," for the purposes of Section R315-266-503, means the power to direct the policies of the healthcare facility, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate healthcare facilities on behalf of a different person as defined in Section R315-260-10 may not be considered to "control" the healthcare facilities, or has a contractual or other documented business relationship whereby the receiving healthcare facility supplies pharmaceuticals to the very small quantity generator healthcare facility;

(2) is operating under Sections R315-266-500 through R315-266-510 for the management of its potentially creditable hazardous waste pharmaceuticals;

(3) manages the potentially creditable hazardous waste pharmaceuticals that it receives from off site in compliance with Sections R315-266-500 through R315-266-510; and

(4) keeps records of the potentially creditable hazardous waste pharmaceuticals shipments it receives from off site for three years from the date that the shipment is received.

(c) Prohibition. Healthcare facilities are prohibited from sending hazardous wastes other than potentially creditable hazardous waste pharmaceuticals to a reverse distributor.

(d) Biennial Reporting by healthcare facilities. Healthcare facilities are not subject to biennial reporting requirements under Section R315-262-41 with respect to potentially creditable hazardous waste pharmaceuticals managed under Sections R315-266-500 through R315-266-510.

(e) Recordkeeping by healthcare facilities.

(1) A healthcare facility that initiates a shipment of potentially creditable hazardous waste pharmaceuticals to a reverse distributor shall keep the following records, paper or electronic, for each shipment of potentially creditable hazardous waste pharmaceuticals for three years from the date of shipment:

(i) the confirmation of delivery; and

(ii) the shipping papers prepared in accordance with 49 CFR part 172 subpart C, if applicable.

(2) The periods of retention referred to in Section R315-266-503 are extended automatically during [~~the course of~~]any unresolved enforcement action regarding the regulated activity, or as requested by the [~~Director~~]director.

(3) Records shall be readily available upon request by an inspector.

(f) Response to spills of potentially creditable hazardous waste pharmaceuticals at healthcare facilities. A healthcare facility shall immediately contain any spills of potentially creditable hazardous waste pharmaceuticals and manage the spill clean-up materials as non-creditable hazardous waste pharmaceuticals in accordance with Sections R315-266-500 through R315-266-510.

R315-266-504. Hazardous Waste Pharmaceuticals -- Healthcare Facilities [~~t~~]That [~~a~~]Are Very Small Quantity Generators for Both Hazardous Waste Pharmaceuticals and Non-Pharmaceutical Hazardous Waste That Are Not Operating Under Sections R315-266-500 Through R315-266-510.

(a) Potentially creditable hazardous waste pharmaceuticals. A healthcare facility that is a very small quantity generator for both hazardous waste pharmaceuticals and non-pharmaceutical hazardous waste may send its potentially creditable hazardous waste pharmaceuticals to a reverse distributor.

(b) Off-site collection of hazardous waste pharmaceuticals generated by a healthcare facility that is a very small quantity generator. A healthcare facility that is a very small quantity generator for both hazardous waste pharmaceuticals and non-pharmaceutical hazardous waste may send its hazardous waste pharmaceuticals off-site to another [~~healthcare facility~~]generator, provided:

(1) the receiving healthcare facility meets the conditions in Subsections R315-266-502(l) and R315-266-503(b), as applicable[~~,~~]; or

(2) the very small quantity generator healthcare facility meets the conditions in Subsection R315-262-14(a)(5)(viii) and the receiving large quantity generator meets the conditions in Subsection R315-262-17(f).

(c) Long-term care facilities that are very small quantity generators. A long-term care facility that is a very small quantity generator for both hazardous waste pharmaceuticals and non-pharmaceutical hazardous waste may dispose of its hazardous waste pharmaceuticals, excluding contaminated personal protective equipment or clean-up materials, in an on-site collection receptacle of an authorized collector, as defined by the Drug Enforcement Administration, that is registered with the Drug Enforcement Administration provided the contents are collected, stored, transported, destroyed and disposed of in compliance with applicable Drug Enforcement Administration regulations for controlled substances.

(d) Long-term care facilities with 20 beds or fewer. A long-term care facility with 20 beds or fewer is presumed to be a very small quantity generator subject to Section R315-262-14 for both hazardous waste pharmaceuticals and non-pharmaceutical hazardous waste and not subject to Sections R315-266-500 through R315-266-510, except for Sections R315-266-505 and R315-266-507 and the other optional [~~provisions~~]requirements of Section R315-266-504. The [~~Director~~]director has the responsibility to demonstrate that a long-term care facility with 20 beds or fewer generates quantities of hazardous waste that are in excess of the very small quantity generator limits as defined in Section R315-260-10. A long-term care facility with more than 20 beds that operates as a very small quantity generator under Section R315-262-14 shall demonstrate that it generates quantities of hazardous waste that are within the very small quantity generator limits as defined by Section R315-260-10.

R315-266-505. Hazardous Waste Pharmaceuticals -- Prohibition of Sewering Hazardous Waste Pharmaceuticals.

Each healthcare facility[~~Healthcare facilities~~], including very small quantity generators operating under Section R315-262-14 in lieu of Sections R315-266-500 through R315-266-510, and reverse distributors are prohibited from discharging hazardous waste pharmaceuticals to a sewer system that passes through to a publicly-owned treatment works. Healthcare facilities and reverse distributors remain subject to the prohibitions in 40 CFR 403.5(b)(1).

R315-266-506. Hazardous Waste Pharmaceuticals -- Conditional Exemptions for Hazardous Waste Pharmaceuticals That Are Also Controlled Substances and Household Waste Pharmaceuticals Collected [~~in a Take-Back Event or Program.~~]by an Authorized Collector.

(a) Conditional exemptions. Provided the conditions of Subsection R315-266-506(b) are met, the following are exempt from Rules R315-262 through R315-273:

(1) hazardous waste pharmaceuticals that are also listed on a schedule of controlled substances by the Drug Enforcement Administration in 21 CFR part 1308; and

(2) household waste pharmaceuticals that are collected [~~in a take-back event or program, including those that are collected~~]by an authorized collector, as defined by the Drug Enforcement Administration, registered with the Drug Enforcement Administration that commingles the household waste pharmaceuticals with controlled substances from an ultimate user, as defined by the Drug Enforcement Administration.

(b) Conditions for exemption. The hazardous waste pharmaceuticals shall be:

(1) managed in compliance with the sewer prohibition of Section R315-266-505; and

(2) collected, stored, transported, and disposed of in compliance with applicable Drug Enforcement Administration regulations for controlled substances; and

(3) destroyed by a method that Drug Enforcement Administration has publicly [~~deemed~~]determined in writing to meet their non-retrievable standard of destruction or combusted at one of the following:

(i) a permitted large municipal waste combustor, subject to 40 CFR part 62 subpart FFF or applicable state plan for existing large municipal waste combustors, or 40 CFR part 60 subparts Eb for new large municipal waste combustors;

(ii) a permitted small municipal waste combustor, subject to 40 CFR part 62 subpart JJJ or applicable state plan for existing small municipal waste combustors, or 40 CFR part 60 subparts AAAA for new small municipal waste combustors;

(iii) a permitted hospital, medical and infectious waste incinerator, subject to 40 CFR part 62 subpart HHH or applicable state plan for existing hospital, medical and infectious waste incinerators, or 40 CFR part 60 subpart Ec for new hospital, medical and infectious waste incinerators;

(iv) a permitted commercial and industrial solid waste incinerator, subject to 40 CFR part 62 subpart III or applicable state plan for existing commercial and industrial solid waste incinerators, or 40 CFR part 60 subpart CCCC for new commercial and industrial solid waste incinerators; or

(v) a permitted hazardous waste combustor subject to 40 CFR part 63 subpart EEE.

R315-266-507. Hazardous Waste Pharmaceuticals -- Residues of Hazardous Waste Pharmaceuticals in Empty Containers.

(a) Stock, dispensing and unit-dose containers. A stock bottle, dispensing bottle, vial, or ampule, not to exceed 1 liter or 10,000 pills[~~:~~], or a unit-dose container, such as a unit-dose packet, cup, wrapper, blister pack, or delivery device, is considered empty and the residues are not regulated as hazardous waste provided the pharmaceuticals have been removed from the stock bottle, dispensing bottle, vial, ampule, or the unit-dose container using the practices commonly employed to remove materials from that type of container.

(b) Syringes. A syringe is considered empty and the residues are not regulated as hazardous waste under Sections R315-266-500 through R315-266-510 provided the contents have been removed by fully depressing the plunger of the syringe. At healthcare facilities operating under Sections R315-266-500 through R315-266-510,[~~If~~] if a syringe is not empty, the syringe shall be placed with its remaining hazardous waste pharmaceuticals into a container that is managed and disposed of as a non-creditable hazardous waste pharmaceutical under Sections R315-266-500 through R315-266-510 and any applicable federal, state, and local requirements for sharps containers and medical waste.

(c) Intravenous (IV) bags. An IV bag is considered empty and the residues are not regulated as hazardous waste provided the pharmaceuticals in the IV bag have been fully administered to a patient[~~.~~], or if the IV bag held non-acute hazardous waste pharmaceuticals and is empty as defined in Subsection R315-261(b)(1). At healthcare facilities operating under Sections R315-266-500 through R315-266-510,[~~If~~] if an IV bag is not empty, the IV bag shall be placed with its remaining hazardous waste pharmaceuticals into a container that is managed and disposed of as a non-creditable hazardous waste pharmaceutical under Sections R315-266-500 through R315-266-510, unless the IV bag held non-acute hazardous waste pharmaceuticals and is empty as defined in Subsection R315-261-7(b)(1).

(d) Other containers, including delivery devices. At healthcare facilities operating under Sections R315-266-500 through R315-266-510, [~~If~~]hazardous waste pharmaceuticals remaining in any other type of unused, partially administered, or fully administered containers shall be managed as non-creditable hazardous waste pharmaceuticals under Sections R315-266-500 through R315-266-510, unless the container held non-acute hazardous waste pharmaceuticals and is empty as defined in Subsection R315-261-7(b)(1) or R315-261-7(b)(2). This includes[~~, but is not limited to,~~] residues in inhalers, aerosol cans, nebulizers, tubes of ointments, gels, or creams.

R315-266-508. Hazardous Waste Pharmaceuticals -- Shipping Non-Creditable Hazardous Waste Pharmaceuticals from a Healthcare Facility or Evaluated Hazardous Waste Pharmaceuticals from a Reverse Distributor.

(a) Shipping non-creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals. A healthcare facility shall ship non-creditable hazardous waste pharmaceuticals and a reverse distributor shall ship evaluated hazardous waste pharmaceuticals off-site to a designated facility, that is, a permitted or interim status treatment, storage, or disposal facility, in compliance with:

(1) [~~T~~]the following pre-transport requirements, before transporting or offering for transport off-site:

(i) Packaging. Package the waste in accordance with the applicable Department of Transportation regulations on hazardous materials under 49 CFR parts 173, 178, and 180.

(ii) Labeling. Label each package in accordance with the applicable Department of Transportation regulations on hazardous materials under 49 CFR part 172 subpart E.

(iii) Marking.

(A) Mark each package of hazardous waste pharmaceuticals in accordance with the applicable Department of Transportation (DOT) regulations on hazardous materials under 49 CFR part 172 subpart D.

(B) Mark each container of 119 gallons or less used in [~~such~~]the transportation in accordance with the requirements of 49 CFR 172.304 with the following words and information[~~in accordance with the requirements of 49 CFR 172.304~~]:

HAZARDOUS WASTE---Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency.

Healthcare Facility's or Reverse distributor's Name and Address _____.

Healthcare Facility's or Reverse distributor's EPA Identification Number_____.

Manifest Tracking Number _____.

(C) Lab packs that will be incinerated in compliance with Subsection R315-268-42(c) are not required to be marked with EPA Hazardous Waste Numbers, that is, hazardous waste codes, except D004, D005, D006, D007, D008, D010, and D011, [~~where~~]if applicable. A nationally recognized electronic system, such as bar coding or radio frequency identification tag, may be used to identify the applicable EPA [~~Hazardous Waste Numbers~~]hazardous waste numbers, that is, hazardous waste codes.

(iv) Placarding. Placard or offer the initial transporter the appropriate placards according to Department of Transportation regulations for hazardous materials under 49 CFR part 172 subpart F.

(2) [~~T~~]the manifest requirements of Sections R315-262-20 through R315-262-27, except as follows:

(i) A healthcare facility shipping non-creditable hazardous waste pharmaceuticals is not required to list each applicable EPA hazardous waste number, in other words, hazardous waste codes, in Item 13 of EPA Form 8700-22.

(ii) A healthcare facility shipping non-creditable hazardous waste pharmaceuticals shall write either the word "PHARMS" or "PHRM" in Item 13 of EPA Form 8700-22.

(b) Exporting non-creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals. A healthcare facility or reverse distributor that exports non-creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals is subject to Sections R315-262-80 through R315-262-89.

(c) Importing non-creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals. Any person that imports non-creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals is subject to Sections R315-262-80 through R315-262-89. A healthcare facility or reverse distributor may not accept imported non-creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals unless they have a permit or interim status that allows them to accept hazardous waste from off site.

R315-266-510. Hazardous Waste Pharmaceuticals -- Standards for the Management of Potentially Creditable Hazardous Waste Pharmaceuticals and Evaluated Hazardous Waste Pharmaceuticals at Reverse Distributors.

A reverse distributor may accept potentially creditable hazardous waste pharmaceuticals from off site and accumulate potentially creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals on-site without a hazardous waste permit or without having interim status, [~~provided that it~~]if the reverse distributor complies with the following conditions:

(a) Standards for reverse distributors managing potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals.

(1) Notification. A reverse distributor shall notify the [~~Director~~]director, using the Site Identification Form, EPA Form 8700-12, that it is a reverse distributor operating under Sections R315-266-500 through R315-266-510.

(i) A reverse distributor that already has an EPA identification number shall notify the [~~Director~~]director, using the Site Identification Form, EPA Form 8700-12, that it is a reverse distributor, as defined in Section R315-266-500, within 60 days of the effective date of Sections R315-266-500 through R315-266-510, or within 60 days of becoming subject to Sections R315-266-500 through R315-266-510.

(ii) A reverse distributor that does not have an EPA identification number shall [~~obtain~~]get one by notifying the [~~Director~~]director, using the Site Identification Form, EPA Form 8700-12, that it is a reverse distributor, as defined in Section R315-266-500, within 60 days of the effective date of Sections R315-266-500 through R315-266-510, or within 60 days of becoming subject to Sections R315-266-500 through R315-266-510.

(2) Inventory by the reverse distributor. A reverse distributor shall maintain a current inventory of the potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals that are accumulated on-site.

(i) A reverse distributor shall inventory each potentially creditable hazardous waste pharmaceutical within 30 calendar days of each waste arriving at the reverse distributor.

(ii) The inventory shall include the identity, for example, name or national drug code, and quantity of each potentially creditable hazardous waste pharmaceutical and evaluated hazardous waste pharmaceutical.

(iii) If the reverse distributor already meets the inventory requirements of Subsection R315-266-510(a)(2) because of other regulatory requirements, such as [~~S~~]state [~~B~~]board of [~~P~~]pharmacy regulations, the facility is not required to provide a separate inventory pursuant to Section R315-266-510.

(3) Evaluation by a reverse distributor that is not a manufacturer. A reverse distributor that is not a pharmaceutical manufacturer shall evaluate a potentially creditable hazardous waste pharmaceutical within 30 calendar days of the waste arriving at the reverse distributor to establish whether it is destined for another reverse distributor for further evaluation or verification of manufacturer credit or for a permitted or interim status treatment, storage, or disposal facility.

(i) A potentially creditable hazardous waste pharmaceutical that is destined for another reverse distributor is still considered a "potentially creditable hazardous waste pharmaceutical" and shall be managed in accordance with Subsection R315-266-510(b).

(ii) A potentially creditable hazardous waste pharmaceutical that is destined for a permitted or interim status treatment, storage or disposal facility is considered an "evaluated hazardous waste pharmaceutical" and shall be managed in accordance with Subsection R315-266-501(c).

(4) Evaluation by a reverse distributor that is a manufacturer. A reverse distributor that is a pharmaceutical manufacturer shall evaluate a potentially creditable hazardous waste pharmaceutical to verify manufacturer credit within 30 calendar days of the waste arriving at the facility and following the evaluation shall manage the evaluated hazardous waste pharmaceuticals in accordance with Subsection R315-266-501(c).

(5) Maximum accumulation time for hazardous waste pharmaceuticals at a reverse distributor.

(i) A reverse distributor may accumulate potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals on-site for 180 calendar days or less. The 180 days start after the potentially creditable hazardous waste pharmaceutical has been evaluated and applies to any hazardous waste pharmaceuticals accumulated on-site, regardless of whether they are destined for another reverse distributor, that is potentially creditable hazardous waste pharmaceuticals, or a permitted or interim status treatment, storage, or disposal facility, that is evaluated hazardous waste pharmaceuticals.

(ii) Aging pharmaceuticals. Unexpired pharmaceuticals that are otherwise creditable but are awaiting their expiration date, in other words, aging in a holding morgue, can be accumulated for up to 180 days after the expiration date, [~~provided~~]except that the unexpired pharmaceuticals are managed in accordance with Subsection R315-266-510(a) and the container labeling and management standards in Subsections R315-266-510(c)(4)(i) through R315-266-510(c)(4)(vi).

(6) Security at the reverse distributor facility. A reverse distributor shall prevent unknowing entry and minimize the possibility for the unauthorized entry into the portion of the facility where potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals are kept.

(i) Examples of methods that may be used to prevent unknowing entry and minimize the possibility for unauthorized entry include[~~, but are not limited to~~]:

(A) a 24-hour continuous monitoring surveillance system;

(B) an artificial barrier such as a fence; or

(C) a means to control entry, such as keycard access.

(ii) If the reverse distributor already meets the security requirements of Subsection R315-266-510(a)(6) because of other regulatory requirements, such as Drug Enforcement Administration or [~~S~~]state [~~B~~]board of [~~P~~]pharmacy regulations, the facility is not required to provide separate security measures pursuant to Section R315-266-510.

(7) Contingency plan and emergency procedures at a reverse distributor. A reverse distributor that accepts potentially creditable hazardous waste pharmaceuticals from off-site shall prepare a contingency plan and comply with the other requirements of Sections R315-262-250 through R315-262-265.

(8) Closure of a reverse distributor. If closing an area where a reverse distributor accumulates potentially creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals, the reverse distributor shall comply with Subsections R315-262-17(a)(8)(ii) and R315-262-17(a)(8)(iii).

(9) Reporting by a reverse distributor.

(i) Unauthorized waste report. A reverse distributor shall submit an unauthorized waste report if the reverse distributor receives waste from off site that it is not authorized to receive, for example, non-pharmaceutical hazardous waste, regulated medical waste. The reverse distributor shall prepare and submit an unauthorized waste report to the [~~Director~~]director within 45 calendar days after the unauthorized waste arrives at the reverse distributor and shall send a copy of the unauthorized waste report to the healthcare facility, or other entity, that sent the unauthorized waste. The reverse distributor shall manage the unauthorized waste in accordance with applicable rules. The unauthorized waste report shall be signed by the owner or operator of the reverse distributor, or its authorized representative, and contain the following information:

(A) the EPA identification number, name and address of the reverse distributor;

(B) the date the reverse distributor received the unauthorized waste;

(C) the EPA identification number, name, and address of the healthcare facility, or other entity, that shipped the unauthorized waste, if available;

(D) a description and the quantity of each unauthorized waste the reverse distributor received;

(E) the method of treatment, storage, or disposal for each unauthorized waste; and

(F) a brief explanation of why the waste was unauthorized, if known.

(ii) Additional reports. The [~~Director~~]director may require reverse distributors to furnish additional reports concerning the quantities and disposition of potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals.

(10) Recordkeeping by reverse distributors. A reverse distributor shall keep certain records, paper or electronic, readily available upon request by an inspector. The periods of retention referred to in Section R315-266-510 are extended automatically during [~~the course of~~

]any unresolved enforcement action regarding the regulated activity, or as requested by the [~~Director~~]director. A reverse distributor shall keep the following records:

(i) a copy of its notification on file for as long as the facility is subject to Sections R315-266-500 through R315-266-510;

(ii) a copy of the delivery confirmation and the shipping papers for each shipment of potentially creditable hazardous waste pharmaceuticals that it receives, and a copy of each unauthorized waste report, for at least three years from the date the shipment arrives at the reverse distributor; and

(iii) a copy of its current inventory for as long as the facility is subject to Sections R315-266-500 through R315-266-510.

(b) Additional standards for reverse distributors managing potentially creditable hazardous waste pharmaceuticals destined for another reverse distributor. A reverse distributor that does not have a permit or interim status shall comply with the following conditions, in addition to the requirements in Subsection R315-266-510(a), for the management of potentially creditable hazardous waste pharmaceuticals that are destined for another reverse distributor for further evaluation or verification of manufacturer credit:

(1) A reverse distributor that receives potentially creditable hazardous waste pharmaceuticals from a healthcare facility shall send those potentially creditable hazardous waste pharmaceuticals to another reverse distributor within 180 calendar days after the potentially creditable hazardous waste pharmaceuticals have been evaluated or follow Subsection R315-266-510(c) for evaluated hazardous waste pharmaceuticals.

(2) A reverse distributor that receives potentially creditable hazardous waste pharmaceuticals from another reverse distributor shall send those potentially creditable hazardous waste pharmaceuticals to a reverse distributor that is a pharmaceutical manufacturer within 180 calendar days after the potentially creditable hazardous waste pharmaceuticals have been evaluated or follow Subsection R315-266-510(c) for evaluated hazardous waste pharmaceuticals.

(3) A reverse distributor shall ship potentially creditable hazardous waste pharmaceuticals destined for another reverse distributor in accordance with Section R315-266-509.

(4) Recordkeeping by reverse distributors. A reverse distributor shall keep certain records, paper or electronic, readily available upon request by an inspector for each shipment of potentially creditable hazardous waste pharmaceuticals that it initiates to another reverse distributor, for at least three years from the date of shipment. The periods of retention referred to in Section R315-266-510 are extended automatically during [~~the course of~~]any unresolved enforcement action regarding the regulated activity, or as requested by the [~~Director~~]director. A reverse distributor shall keep the following records:

(i) the confirmation of delivery; and

(ii) the DOT shipping papers prepared in accordance with 49 CFR part 172 subpart C, if applicable.

(c) Additional standards for reverse distributors managing evaluated hazardous waste pharmaceuticals. A reverse distributor that does not have a permit or interim status shall comply with the following conditions, in addition to the requirements of Subsection R315-266-510(a), for the management of evaluated hazardous waste pharmaceuticals:

(1) Accumulation area at the reverse distributor. A reverse distributor shall designate an on-site accumulation area where it will accumulate evaluated hazardous waste pharmaceuticals.

(2) Inspections of on-site accumulation area. A reverse distributor shall inspect its on-site accumulation area at least once [~~every~~]each seven calendar days, looking at containers for leaks and for deterioration caused by corrosion or other factors, as well as for signs of diversion.

(3) Personnel training at a reverse distributor. Personnel at a reverse distributor that handle evaluated hazardous waste pharmaceuticals are subject to the training requirements of Subsection R315-262-17(a)(7).

(4) Labeling and management of containers at on-site accumulation areas. A reverse distributor accumulating evaluated hazardous waste pharmaceuticals in containers in an on-site accumulation area shall:

(i) label the containers with the words, "hazardous waste pharmaceuticals";

(ii) ensure the containers are in good condition and managed to prevent leaks;

(iii) use containers that are made of or lined with materials [~~which~~]that will not react with, and are otherwise compatible with, the evaluated hazardous waste pharmaceuticals, so that the ability of the container to contain the waste is not impaired;

(iv) keep containers closed, if holding liquid or gel evaluated hazardous waste pharmaceuticals. If the liquid or gel evaluated hazardous waste pharmaceuticals are in their original, intact, sealed packaging[~~;~~], or repackaged, intact, sealed packaging, they are considered to meet the closed container standard;

(v) manage any container of ignitable or reactive evaluated hazardous waste pharmaceuticals, or any container of commingled incompatible evaluated hazardous waste pharmaceuticals so that the container does not have the potential to:

(A) generate extreme heat or pressure, fire or explosion, or violent reaction;

(B) produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health;

(C) produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions;

(D) damage the structural integrity of the container of hazardous waste pharmaceuticals; or

(E) through other like means threaten human health or the environment; and

(vi) accumulate evaluated hazardous waste pharmaceuticals that are prohibited from being combusted because of the dilution prohibition of Subsection R315-268-3(c), that is, metal-bearing waste codes listed in Section R315-268-57, unless one or more criteria in Subsections R315-268-3(c)(1) through R315-268-3(c)(6) are met, or because it is prohibited from being lab packed to due to Subsection R315-26-42(c), that is, waste codes listed in Section R315-268-52[~~for example, arsenic trioxide (P012)~~], in separate containers from other evaluated hazardous waste pharmaceuticals at the reverse distributor.

(5) Hazardous waste numbers. [~~Prior to~~]Before shipping evaluated hazardous waste pharmaceuticals off site, each container shall be marked with the applicable EPA hazardous waste numbers, in other words hazardous waste codes. A nationally recognized electronic system, such as bar coding or radio frequency identification tag, may be used to identify the applicable EPA [~~Hazardous Waste Numbers~~]hazardous waste numbers, in other words, hazardous waste codes.

(6) Shipments. A reverse distributor shall ship evaluated hazardous waste pharmaceuticals that are destined for a permitted or interim status treatment, storage or disposal facility in accordance with the applicable shipping standards in Subsection[~~s~~] R315-266-508(a) or R315-266-508(b).

(7) Procedures for a reverse distributor for managing rejected shipments. A reverse distributor that sends a shipment of evaluated hazardous waste pharmaceuticals to a designated facility with the understanding that the designated facility can accept and manage the waste, and later receives that shipment back as a rejected load in accordance with the manifest discrepancy [~~provisions~~]requirements of Section R315-264-72 or R315-265-72, may accumulate the [~~returned~~]rejected evaluated hazardous waste pharmaceuticals on-site for up to an additional 90 calendar days in the on-site accumulation area provided the rejected [~~or returned~~]shipment is managed in accordance with Subsections R315-266-510(a) and R315-266-510(c). Upon receipt of the [~~returned~~]rejected shipment, the reverse distributor shall:

(i) sign either:

(A) item 18c of the original manifest, if the original manifest was used for the returned shipment; or

(B) item 20 of the new manifest, if a new manifest was used for the returned shipment;

(ii) provide the transporter a copy of the manifest;

(iii) within 30 calendar days of receipt of the rejected shipment of the evaluated hazardous waste pharmaceuticals, send a copy of the manifest to the designated facility that returned the shipment to the reverse distributor; and

(iv) within 90 calendar days of receipt of the rejected shipment, transport or offer for transport the returned shipment of evaluated hazardous waste pharmaceuticals in accordance with the applicable shipping standards of Subsection R315-266-508(a) or R315-266-508(b).

(8) Land disposal restrictions. Evaluated hazardous waste pharmaceuticals are subject to the land disposal restrictions of Rule R315-268. A reverse distributor that accepts potentially creditable hazardous waste pharmaceuticals from off-site shall comply with the land disposal restrictions in accordance with the requirements of Subsection R315-268-7(a).

(9) Reporting by a reverse distributor for evaluated hazardous waste pharmaceuticals.

(i) Biennial reporting by a reverse distributor. A reverse distributor that ships evaluated hazardous waste pharmaceuticals off-site shall prepare and submit a single copy of a biennial report to the [~~Director~~]director by March 1 of each even numbered year in accordance with Section R315-262-41.

(ii) Exception reporting by a reverse distributor for a missing copy of the manifest.

(A) For shipments from a reverse distributor to a designated facility.

(I) If a reverse distributor does not receive a copy of the manifest with the signature of the owner or operator of the designated facility within 35 calendar days of the date the evaluated hazardous waste pharmaceuticals were accepted by the initial transporter, the reverse distributor shall contact the transporter or the owner or operator of the designated facility to determine the status of the evaluated hazardous waste pharmaceuticals.

(II) A reverse distributor shall submit an exception report to the [~~Director~~]director if it has not received a copy of the manifest with the signature of the owner or operator of the designated facility within 45 calendar days of the date the evaluated hazardous waste pharmaceutical was accepted by the initial transporter. The exception report shall include:

(1) a legible copy of the manifest for which the reverse distributor does not have confirmation of delivery; and

(2) a cover letter signed by the reverse distributor, or its authorized representative, explaining the efforts taken to locate the evaluated hazardous waste pharmaceuticals and the results of those efforts.

(B) For shipments rejected by the designated facility and shipped to an alternate facility.

(I) A reverse distributor that does not receive a copy of the manifest with the signature of the owner or operator of the alternate facility within 35 calendar days of the date the evaluated hazardous waste pharmaceuticals were accepted by the initial transporter shall contact the transporter or the owner or operator of the alternate facility to determine the status of the hazardous waste. The 35-day time frame begins the date the evaluated hazardous waste pharmaceuticals are accepted by the transporter forwarding the hazardous waste shipment from the designated facility to the alternate facility.

(II) A reverse distributor shall submit an [~~E~~]exception [~~R~~]report to the [~~Director~~]director if it has not received a copy of the manifest with the signature of the owner or operator of the alternate facility within 45 calendar days of the date the evaluated hazardous waste pharmaceuticals were accepted by the initial transporter. The 45-day timeframe begins the date the evaluated hazardous waste pharmaceuticals are accepted by the transporter forwarding the hazardous waste pharmaceutical shipment from the designated facility to the alternate facility. The [~~E~~]exception [~~R~~]report shall include:

(1) a legible copy of the manifest for which the [~~generator~~]reverse distributor does not have confirmation of delivery; and

(2) a cover letter signed by the reverse distributor, or its authorized representative, explaining the efforts taken to locate the evaluated hazardous waste pharmaceuticals and the results of those efforts.

(10) Recordkeeping by a reverse distributor for evaluated hazardous waste pharmaceuticals.

(i) A reverse distributor shall keep a log, written or electronic, of the inspections of the on-site accumulation area, required by Subsection R315-266-510(c)(2). This log shall be [~~retained~~]kept as a record for at least three years from the date of the inspection.

(ii) A reverse distributor shall keep a copy of each manifest signed in accordance with Subsection R315-262-23(a) for three years or until it receives a signed copy from the designated facility that received the evaluated hazardous waste pharmaceutical. This signed copy shall be [~~retained~~]kept as a record for at least three years from the date the evaluated hazardous waste pharmaceutical was accepted by the initial transporter.

(iii) A reverse distributor shall keep a copy of each biennial report for at least three years from the due date of the report.

(iv) A reverse distributor shall keep a copy of each exception report for at least three years from the submission of the report.

(v) A reverse distributor shall keep records to document personnel training, in accordance with Subsection R315-262-17(a)(7)(iv).

(vi) Records shall be readily available upon request by an inspector. The periods of retention referred to in Section R315-266-510 are extended automatically during [~~the course of~~]any unresolved enforcement action regarding the regulated activity, or as requested by the [~~Director~~]director.

(d) When a reverse distributor shall have a permit. A reverse distributor is an operator of a hazardous waste treatment, storage, or disposal facility and is subject to the requirements of Rules R315-264, and R315-265, and the permit requirements of Rule R315-270, if the reverse distributor:

(1) does not meet the conditions of Section R315-266-510;

(2) accepts manifested hazardous waste from off site; or

(3) treats or disposes of hazardous waste pharmaceuticals on-site.

KEY: hazardous waste
Date of Last Change: 2025[~~July 18, 2022~~]
Notice of Continuation: January 14, 2021
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R315-268-44**	**Filing ID: 56946**

Agency Information

1. Title catchline:	Environmental Quality, Waste Management and Radiation Control, Waste Management	
Building:	MASOB	
Street address:	195 N. 1950 W.	
City, state:	Salt Lake City, Utah	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, Utah 84114-4880	
Contact persons:		
Name:	**Phone:**	**Email:**
Tom Ball	385-454-5587	tball@utah.gov
Kari Lundeen	385-499-4923	klundeen@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R315-268-44. Land Disposal Restrictions – Variance From a Treatment Standard
3. Purpose of the new rule or reason for the change:
The division is correcting an incorrect rule citation.
4. Summary of the new rule or change:
The citation to Subsection R315-260-20(b)(1)-(4) found in Subsection R315-268-44(h)(5)(i) is being corrected to Subsection R315-260-19(d). Additionally, the Division is correcting formatting and typographical errors discovered during the process of reviewing and amending the rule.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
It is not anticipated that the amendments to this rule will cause any cost or savings to the state budget because they do not add any new or remove any existing requirements from the rule.

B) Local governments:

It is not anticipated that the amendments to this rule will cause any cost or savings to local governments because they do not add any new or remove any existing requirements from the rule.

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

It is not anticipated that the amendments to this rule will cause any cost or savings to small businesses that must comply with the rule because they do not add any new or remove any existing requirements from the rule.

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

It is not anticipated that the amendments to this rule will cause any cost or savings to non-small businesses that must comply with the rule because they do not add any new or remove any existing requirements from the rule.

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 amendments to this rule will cause any cost or savings to persons other than small businesses, non-small businesses, state or local government entities that must comply with the rule because they do not add any new or remove any existing requirements from the rule.

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

Because the changes to this rule do not add any new or remove any existing requirements from the rule it is not anticipated that there will be any new compliance costs for any affected persons due to the changes.

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	**FY2025**	**FY2026**	**FY2027**
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	**FY2025**	**FY2026**	**FY2027**
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 19-6-105	Section 19-6-106	

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:	12/31/2024

9. This rule change MAY become effective on:	01/13/2025
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Director	**Date:**	11/14/2024

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-268. Land Disposal Restrictions.
R315-268-44. Land Disposal Restrictions -- Variance From a Treatment Standard.

(a) Based on a petition filed by a generator or treater of hazardous waste, the [~~A~~]administrator may approve a variance from an applicable treatment standard if:

(1) [~~I~~]it is not physically possible to treat the waste to the level specified in the treatment standard, or by the method specified as the treatment standard. To show that this is the case, the petitioner shall demonstrate that because the physical or chemical properties of the waste differ significantly from waste analyzed in developing the treatment standard, the waste cannot be treated to the specified level or by the specified method; or

(2) [~~I~~]it is inappropriate to require the waste to be treated to the level specified in the treatment standard or by the method specified as the treatment standard, even though [~~such~~]the treatment is technically possible. To show that this is the case, the petitioner shall either demonstrate that:

(i) [~~T~~]treatment to the specified level or by the specified method is technically inappropriate, for example, resulting in combustion of large amounts of mildly contaminated environmental media; or

(ii) [~~F~~]for remediation waste only, treatment to the specified level or by the specified method is environmentally inappropriate because it would likely discourage aggressive remediation.

(b) Each petition shall be submitted in accordance with the procedures in 40 CFR 260.20.

(c) Each petition shall include the following statement signed by the petitioner or an authorized representative:

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

(d) After receiving a petition for variance from a treatment standard, the [~~A~~]administrator may request any additional information or samples [~~which he may require~~]that may be required to evaluate the petition. Additional copies of the complete petition may be requested as needed to send to affected states and Regional Offices.

(e) The [~~A~~]administrator shall give public notice in the Federal Register of the intent to approve or deny a petition and provide an opportunity for public comment. The final decision on a variance from a treatment standard shall be published in the Federal Register.

(f) A generator, treatment facility, or disposal facility that is managing a waste covered by a variance from the treatment standards shall comply with the waste analysis requirements for restricted wastes found under Section R315-268-7.

(g) During the petition review process[~~,~~] the applicant [~~is required to~~]shall comply with [~~all~~]the restrictions on land disposal under Rule R315-268 once the effective date for the waste has been reached.

(h) Based on a petition filed by a generator or treater of hazardous waste, the director[~~Director~~] may approve a site-specific variance from an applicable treatment standard if:

(1) [~~I~~]it is not physically possible to treat the waste to the level specified in the treatment standard, or by the method specified as the treatment standard. To show that this is the case, the petitioner shall demonstrate that because the physical or chemical properties of the waste differ significantly from waste analyzed in developing the treatment standard, the waste cannot be treated to the specified level or by the specified method; or

(2) [~~I~~]it is inappropriate to require the waste to be treated to the level specified in the treatment standard or by the method specified as the treatment standard, even though [~~such~~]the treatment is technically possible. To show that this is the case, the petitioner shall either demonstrate that:

(i) [~~T~~]treatment to the specified level or by the specified method is technically inappropriate, for example, resulting in combustion of large amounts of mildly contaminated environmental media [~~where~~]if the treatment standard is not based on combustion of [~~such~~]the media; or

(ii) [~~F~~]for remediation waste only, treatment to the specified level or by the specified method is environmentally inappropriate because it would likely discourage aggressive remediation.

(3) For contaminated soil only, treatment to the level or by the method specified in the soil treatment standards would result in concentrations of hazardous constituents that are below, [~~i.e.~~]that is, lower than, the concentrations necessary to minimize short- and long-term threats to human health and the environment. Treatment variances approved under Subsection R315-268-44(h) shall:

(i) [~~A~~]at a minimum, impose alternative land disposal restriction treatment standards that, using a reasonable maximum exposure scenario:

(A) [~~F~~]for carcinogens, achieve constituent concentrations that result in the total excess risk to an individual exposed over a lifetime generally falling within a range from 10^{-4}[~~1-4~~] to 10^{-6}[~~1-6~~]; and

(B) [~~F~~]for constituents with non[~~-~~]carcinogenic effects, achieve constituent concentrations that an individual could be exposed to on a daily basis without appreciable risk of deleterious effect during a lifetime[~~,~~]; and

(ii) [~~N~~]not consider post[~~-~~] land[~~-~~] disposal controls.

(4) For contaminated soil only, treatment to the level or by the method specified in the soil treatment standards would result in concentrations of hazardous constituents that are below, [~~i.e.~~]that is, lower than, natural background concentrations at the site [~~where~~]if the contaminated soil will be land disposed.

(5) Public notice and a reasonable opportunity for public comment shall be provided before granting or denying a petition.

(i) Each application for a site-specific variance from a treatment standard shall include the information in Subsection[~~s~~] R315-260-19(d)[~~20(b)(1) (4);~~].

(j) After receiving an application for a site-specific variance from a treatment standard, the director[~~Director~~] may request any additional information or samples [~~which~~]that may be required to evaluate the application.

(k) A generator, treatment facility, or disposal facility that is managing a waste covered by a site-specific variance from a treatment standard shall comply with the waste analysis requirements for restricted wastes found under Section R315-268-7.

(l) During the application review process[~~,~~] the applicant for a site-specific variance shall comply with [~~all~~]the restrictions on land disposal under Rule R315-268 once the effective date for the waste has been reached.

(m) For [~~all~~]each variance[~~s,~~] the petitioner shall also demonstrate that compliance with any given treatment variance is [~~sufficient~~]enough to minimize threats to human health and the environment posed by land disposal of the waste. In evaluating this demonstration, EPA or the director[~~Director~~], whichever [~~is applicable~~]applies, may take into account whether a treatment variance should be approved if the subject waste is to be used in a manner constituting disposal pursuant to Sections R315-266-20 through R315-266-23.

(n) [~~(~~]Reserved[~~)~~].

(o) The following facilities are excluded from the treatment standards under Section R315-268-40[~~,~~] and are subject to the following constituent concentrations:

EnergySolutions LLC, Clive, UT -- This site-specific treatment variance applies only to solid treatment residue resulting from the vacuum thermal desorption (VTD) of P- and U-listed hazardous waste containing radioactive contamination, "mixed waste," at the EnergySolutions' LLC facility in Clive, Utah that otherwise requires CMBST as the LDR treatment standard. Once the P- and U-listed mixed waste are treated using VTD, the solid treatment residue can be land disposed at EnergySolutions' onsite RCRA permitted mixed waste landfill without further treatment. This treatment variance is conditioned on EnergySolutions complying with a Waste Family Demonstration Testing Plan specifically addressing the treatment of these P- and U-listed wastes, with this plan being implemented through a RCRA Part B permit modification for the VTD unit.

KEY: hazardous waste, land disposal restrictions
Date of Last Change: 2024[~~July 22, 2022~~]
Notice of Continuation: January 14, 2021
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R315-270-1**	**Filing ID: 56947**

Agency Information

1. Title catchline:	Environmental Quality, Waste Management and Radiation Control, Waste Management
Building:	MASOB
Street address:	195 N. 1950 W.
City, state:	Salt Lake City, Utah

Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, Utah 84114-4880	
Contact persons:		
Name:	**Phone:**	**Email:**
Tom Ball	385-454-5587	tball@utah.gov
Kari Lundeen	385-499-4923	klundeen@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:

R315-270-1. Hazardous Waste Permit Program -- Purpose and Scope of These Rules

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

The EPA made technical corrections that correct or clarify parts of the hazardous waste regulations. Examples of the types of corrections being made include correcting typographical errors, correcting incorrect or outdated citations, updating outdated and incorrect wording, and updating addresses.
These changes are being made in the Utah Hazardous Waste Rules because Utah is authorized to oversee the hazardous waste program in Utah and must have rules that are equivalent to the federal regulations.

4. Summary of the new rule or change:

Subsection R315-270-1(c)(2)(ix) is being deleted because the requirements for reverse distributors are addressed in Sections R315-266-500 through R315-266-510.
Additionally, the Division is correcting formatting and typographical errors discovered during the process of reviewing and amending the rule.

Fiscal Information

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

A) State budget:

It is not anticipated that the amendments to this rule will cause any cost or savings to the state budget because they do not add any new or remove any existing requirements from the rule.

B) Local governments:

It is not anticipated that the amendments to this rule will cause any cost or savings to local governments because they do not add any new or remove any existing requirements from the rule.

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

It is not anticipated that the amendments to this rule will cause any cost or savings to small businesses that must comply with the rule because they do not add any new or remove any existing requirements from the rule.

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

It is not anticipated that the amendments to this rule will cause any cost or savings to non-small businesses that must comply with the rule because they do not add any new or remove any existing requirements from the rule.

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 amendments to this rule will cause any cost or savings to persons other than small businesses, non-small businesses, state or local government entities that must comply with the rule because they do not add any new or remove any existing requirements from the rule.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?)**:**
Because the changes to this rule do not add any new or remove any existing requirements from the rule it is not anticipated that there will be any new compliance costs for any affected persons due to the changes.

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	**FY2025**	**FY2026**	**FY2027**
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	**FY2025**	**FY2026**	**FY2027**
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 19-6-105	Section 19-6-106	

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:	12/31/2024

9. This rule change MAY become effective on:	01/13/2025
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

Agency head or designee and title:	Douglas J. Hansen, Director	**Date:**	11/14/2024

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-270. Hazardous Waste Permit Program.
R315-270-1. Hazardous Waste Permit Program -- Purpose and Scope of Th[~~ese~~]is Rule[~~s~~].

(a) No person shall own, construct, modify, or operate any facility for treating, storing, or disposing of hazardous waste without first submitting, and receiving the approval of the director for, a hazardous waste permit for that facility. However, any person owning or operating a facility on or before November 19, 1980, who has given timely notification as required by Section 3010 of the Resource Conservation and Recovery Act (RCRA) of 1976, 42 U.S.C., Section 6921, et seq., and who has submitted a proposed hazardous waste permit as required by

Section R315-270-1 and Section 19-6-108 for that facility, may continue to operate that facility without violating Section R315-270-1 until the permit is approved or disapproved pursuant to Section R315-270-1.

(b)(1) The director shall review each proposed hazardous waste permit application to determine whether the application will be in accord with Rules R315-260 through R315-266, R315-268, R315-270, and R315-273, and Section 19-6-108 and, on that basis, shall approve or disapprove the application within the applicable time period specified in Section 19-6-108. If, after the receipt of plans, specifications, or other information required under Rule R315-270 and Section 19-6-108 and within the applicable time period of Section 19-6-108, the director determines that the proposed construction, installation or establishment or any part of it will not be in accord with the requirements of Rule R315-270 or other applicable rules, the director shall issue an order prohibiting the construction, installation or establishment of the proposal in whole or in part. The date of submission shall be [~~deemed to be~~]the date that the required information is provided to the director as required by Rule R315-270.

(2) Any permit application that does not meet the requirements of Rules R315-260 through R315-266, R315-268, R315-270, and R315-273 shall be disapproved within the applicable time period specified in Section 19-6-108. If within the applicable time period specified in Section 19-6-108 the director fails to approve or disapprove the permit application or to request the submission of any additional information or modification to the application, the application [~~shall~~]may not be [~~deemed~~]considered approved but the applicant may petition the director for a decision or seek judicial relief requiring a decision of approval or disapproval.

(3) An application for approval of a hazardous waste permit consists of two parts, part A and part B. For an existing facility, the requirement is satisfied by submitting only part A of the application until the date the director sets for each individual facility for submitting part B of the application, which date shall be in no case less than six months after the director gives notice to a particular facility that it shall submit part B of the application.

(c) Scope of the hazardous waste permit requirement. Section 19-6-108 requires a permit for the "treatment," "storage," and "disposal" of any "hazardous waste" as identified or listed in Rule R315-261. The terms "treatment," "storage," "disposal," and "hazardous waste" are defined in Section R315-270-2. Owners and operators of hazardous waste management units shall have permits during the active life, including the closure period, of the unit. Owners and operators of surface impoundments, landfills, land treatment units, and waste pile units that received waste after July 26, 1982, or that certified closure, in accordance with Section R315-265-115, after January 26, 1983, shall have post-closure permits, unless they demonstrate closure by removal or decontamination as provided under Subsections R315-270-1(c)(5) and R315-270-1(c)(6), or [~~obtain~~]get an enforceable document in lieu of a post-closure permit, as provided under Subsection R315-270-1(c)(7). If a post-closure permit is required, the permit shall address applicable Rule R315-264 groundwater monitoring, unsaturated zone monitoring, corrective action, and post-closure care requirements. The denial of a permit for the active life of a hazardous waste management facility or unit does not affect the requirement to [~~obtain~~]get a post-closure permit under Section R315-270-1.

(1) Specific inclusions. Owners and operators of certain facilities require hazardous waste permits as well as permits under other programs for certain aspects of the facility operation. Hazardous waste permits are required for the following:

(i) Injection wells that dispose of hazardous waste, and associated surface facilities that treat, store or dispose of hazardous waste. However, the owner and operator with a Utah or [~~F~~]federal UIC permit, shall be [~~deemed~~]considered to have a "permit by rule" for the injection well itself if they comply with the requirements of Subsection R315-270-60(b).

(ii) Treatment, storage, or disposal of hazardous waste at facilities requiring a[~~n~~] National Pollutant Discharge Elimination System (NPDES) permit. However, the owner and operator of a publicly owned treatment works receiving hazardous waste shall be [~~deemed~~]considered to have a "permit by rule" for that waste if they comply with the requirements of Subsection R315-270-60(c).

(2) Specific exclusions and exemptions. The following are not required to [~~obtain~~]get a hazardous waste permit.

(i) A generator who accumulates hazardous waste on-site in compliance with the conditions for exemption provided in Sections R315-262-14, R315-262-15, R315-262-16, and R315-262-17.

(ii) A farmer who disposes of hazardous waste pesticides from their own use as provided in Section R315-262-70.

(iii) A person who owns or operates facilities solely for the treatment, storage or disposal of hazardous waste excluded from regulation under Rule R315-270 by Section R315-261-4 or Section R315-262-14, very small quantity generator exemption.

(iv) An owner or operator of totally enclosed treatment facilities as defined in Section R315-260-10.

(v) An owner and operator of one or more elementary neutralization units or wastewater treatment units as defined in Section R315-260-10.

(vi) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of Section R315-262-30 at a transfer facility for a period of ten days or less.

(vii) A person adding absorbent material to waste in a container, as defined in Section R315-260-10, and a person adding waste to absorbent material in a container, these actions shall occur [~~at the time~~]waste is first placed in the container, and Subsection R315-264-17(b) and Sections R315-264-171 and R315-264-172 are complied with.

(viii) Universal waste handlers and universal waste transporters, as defined in Section R315-260-10, managing the wastes listed in Subsections R315-270-1(c)(2)(viii)(A) through R315-270-1(c)(2)(viii)(E). These handlers are subject to regulation under Rule R315-273 if handling the following universal wastes:

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

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

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

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

(E) aerosol cans as described in Section R315-273-6.

(ix) [~~Reverse distributors accumulating potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals, as defined in Section R315-266-500. Reverse distributors are subject to regulation under Sections R315-266-500 through~~

~~R315-266-510 for the accumulation of potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals.~~]Reserved.

(3) Further exclusions.

(i) A person is not required to [~~obtain~~]get a permit for treatment or containment activities taken during immediate response to any of the following situations:

(A) a discharge of a hazardous waste;

(B) an imminent and substantial threat of a discharge of hazardous waste; or

(C) a discharge of a material that, if discharged, becomes a hazardous waste.

(ii) Any person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to the applicable requirements of Rule R315-270 for those activities.

(iii) In the case of emergency responses involving military munitions, the responding military emergency response specialist's organizational unit shall [~~retain~~]keep records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

(4) Permits for less than an entire facility. The director may issue or deny a permit for one or more units at a facility without simultaneously issuing or denying a permit to each of the units at the facility. The interim status of any unit [~~for which~~]that has not been issued or denied a permit [~~has not been issued or denied~~]is not affected by the issuance or denial of a permit to any other unit at the facility.

(5) Closure by removal. Owners or operators of surface impoundments, land treatment units, and waste piles closing by removal or decontamination under Rule R315-265 standards shall [~~obtain~~]get a post-closure permit unless they can demonstrate to the director that the closure met the standards for closure by removal or decontamination in Section R315-264-228, Subsection R315-264-280(e), or Section R315-264-258, respectively. The demonstration may be made in the following ways.

(i) If the owner or operator has submitted a part B application for a post-closure permit, the owner or operator may request a determination, based on information contained in the application, that Rule R315-264 closure by removal standards were met. If the director believes that Rule R315-264 standards were met, the director shall notify the public of this proposed decision, allow for public comment, and reach a final determination according to the procedures in Subsection R315-270-1(c)(6).

(ii) If the owner or operator has not submitted a part B application for a post-closure permit, the owner or operator may petition the director for a determination that a post-closure permit is not required because the closure met the applicable Rule R315-264 closure standards.

(A) The petition shall include data demonstrating that closure by removal or decontamination standards of Rule R315-264 were met.

(B) The director shall approve or deny the petition according to the procedures outlined in Subsection R315-270-1(c)(6).

(6) Procedures for closure equivalency determination.

(i) If a facility owner or operator seeks an equivalency demonstration under Subsection R315-270-1(c)(5), the director shall provide the public, through a newspaper notice, the opportunity to submit written comments on the information submitted by the owner or operator within 30 days from the date of the notice. The director shall also, in response to a request or at the director's discretion, hold a public hearing when[~~ever~~] such a hearing might clarify one or more issues concerning the equivalence of the Rule R315-265 closure to a Rule R315-264 closure. The director shall give public notice of the hearing at least 30 days before it occurs. Public notice of the hearing may be given [~~at the time~~]when that notice of the opportunity for the public to submit written comments is given, and the two notices may be combined.

(ii) The director shall determine whether the Rule R315-265 closure met the Rule R315-264 closure by removal or decontamination requirements within 90 days of its receipt. If the director finds that the closure did not meet the applicable Rule R315-264 standards, the director shall provide the owner or operator with a written statement of the reasons why the closure failed to meet Rule R315-264 standards. The owner or operator may submit additional information in support of an equivalency demonstration within 30 days after receiving the written statement. The director shall review any additional information submitted and make a final determination within 60 days.

(iii) If the director determines that the facility did not close in accordance with Rule R315-264 closure by removal standards, the facility is subject to post-closure permitting requirements.

(7) Enforceable documents for post-closure care. At the discretion of the director, an owner or operator may [~~obtain~~]get, in lieu of a post-closure permit, an enforceable document imposing the requirements of Section R315-265-121. "Enforceable document" means an order, a permit, or other document issued by the director including a corrective action order issued by EPA under Section 3008(h), a CERCLA remedial action, or a closure or post-closure permit.

KEY: hazardous waste
Date of Last Change: 2024[~~July 22, 2022~~]
Notice of Continuation: January 14, 2021
Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

NOTICE OF SUBSTANTIVE CHANGE		
TYPE OF FILING: Amendment		
Rule or Section Number:	**R477-7-10**	**Filing ID: 56932**

WASTE MANAGEMENT AND RADIATION CONTROL BOARD
Executive Summary
REQUEST FOR A SITE-SPECIFIC TREATMENT VARIANCE
Energy*Solutions*, LLC
January 9, 2025

What is the issue before the Board?	On October 14, 2024, Energy*Solutions*, LLC submitted a request to the Director of the Division of Waste Management and Radiation Control for a one-time site-specific treatment variance from the Utah Hazardous Waste Management Rules. Energy*Solutions* seeks authorization to receive, treat, and macroencapsulate approximately 35 tons of incinerator waste ash containing elevated levels of dioxins and furans as Underlying Hazardous Constituents (UHCs) for disposal.
What is the historical background or context for this issue?	Energy*Solutions* requests approval for a variance from Utah Administrative Code R315-268-40(a)(3) for incinerator ash waste that meets all other treatment standards except those for dioxan and furan UHCs to receive, treat, and dispose of in Energy*Solutions* Mixed Waste Landfill Cell. This request is for waste ash generated from incinerator and metal recycling processes that contain dibenzo-p-dioxin and dibenzofuran UHCs above their respective treatment standards denoted with the Universal Treatment Standards (UTS) in Utah Admin. Code R315-268-48. All other required treatment standards associated with this waste stream will be met prior to disposal. The basis for this variance is as follows: requiring this waste stream to meet the dioxin and furan treatment standards is inappropriate based on the incineration and recycling processes that generate this waste. Due to those processes all the ash waste contains dioxins and furans; however, in accordance with regulations, only a portion of the waste needs to be treated for those contaminants. The generator has previously analyzed each container of ash for metals contamination. If metals were below the toxicity characteristic concentrations described in 40 CFR 261.24 (Utah Admin. Code R315-261-24), the waste would be shipped to the Clive facility as Low-Level Radioactive Waste (LLRW) and disposed in the Class A Embankment. If metals were above the Toxicity Characteristic concentrations, then the waste would need to be treated for those metals as well as all UHCs, including dioxins and furans. It is inappropriate to require treatment of dioxin and furan contaminants in instances where characteristic metals are found in the waste when treatment is not required if metals are below characteristic concentrations in the waste. Furthermore, the stabilized ash was re-incinerated in an attempt to reduce the concentration of dioxins and furans in the ash. Re-incineration resulted in very little reduction in concentrations of the dioxan furan contaminants. It would be inappropriate to require this additional incineration step in order to attempt to meet the standards.

	Energy*Solutions* proposed to confirm that the waste meets all required treatment standards with the exception of the dioxan and furan UHC standards and then macroencapsulate the ash residue following approved requirements for MACRO in the state-issued Part B Permit. Macroencapsulation is an approved process that provides further isolation from the environment and will avoid unnecessary additional re-attempts of incineration of the waste. Final disposal of the waste will occur in the Mixed Waste Disposal Cell at the Energy*Solutions* Mixed Waste Facility. Energy*Solutions* has previously requested this variance in August 2023 for approximately 20 tons of dioxan furan waste and has historically requested and been approved for this variance five times since September 2018. A notice for public comment was published in the *Salt Lake Tribune*, the *Deseret News* and the *Tooele County Transcript Bulletin* on November 6, 2024. The comment period began November 7, 2024, and ended December 6, 2024; no public comments were received. The public notice can be viewed, via the following link: https://www.utahlegals.com/(S(vj3r1q2wocqyh3nijkvpedx1))/PDFDocument.aspx?SID=vj3r1q2wocqyh3nijkvpedx11709278&FileName=Dept+on+Environmental+Quality.pdf
What is the governing statutory or regulatory citation?	Variances are provided in 19-6-111 of the Utah Solid and Hazardous Waste Act. This is a one-time site-specific variance from an applicable treatment standard as allowed by Utah Admin. Code R315-268-44.
Is Board action required?	Yes, this is an action item before the Board. This variance request was presented as an information item to the Board on November 14, 2024.
What is the Division/Director's recommendation?	The Director recommends approval of this variance request. The Director's recommendation is based on the following findings: the proposed alternative treatment method meets the regulatory basis for a variance and will be as safe for human health and the environment as the required method.
Where can more information be obtained?	For technical questions, please contact Tyler Hegburg (385) 622-1875. For legal questions, please contact Bret Randall at (801) 536-0284. **The variance request was provided in the November 14, 2024, Board packet.**

WASTE MANAGEMENT AND RADIATION CONTROL BOARD
Executive Summary
Proposed Stipulation and Consent Order No. 2402031 with Matt Oviatt
Regarding the Former Crown Plating Facility
UTD009086372
January 9, 2025

What is the issue before the Board?	This is a Proposed Stipulation and Consent Order (SCO) No. 2402031 with Matt Oviatt regarding the Former Crown Plating Facility.
What is the historical background or context for this issue?	The Proposed SCO settles five violations that were based on information gathered by representatives of the Division of Waste Management and Radiation Control (Division). That information demonstrated that Mr. Oviatt acquired and began redeveloping the former Crown Plating Facility property in Salt Lake City. In the process of redeveloping the property, Mr. Oviatt managed hazardous waste in a manner that violated Utah Administrative Code R315. Among other requirements, the Proposed SCO requires Mr. Oviatt to close the facility under the Division's Environmental Cleanup Program within 18 months of the effective date of the Proposed SCO. The Proposed SCO includes a total penalty of $43,160.00, of which $31,200.00 will be paid in cash, with the remaining penalty amount of $11,960.00 to be deferred and waived if conditions specified in the Proposed SCO are met. A notice for public comment was published in the *Salt Lake Tribune* and the *Deseret News* on November 13, 2024. A 30-day public comment period began on November 14, 2024, and ended on December 13, 2024; no comments were received.
What is the governing statutory or regulatory citation?	§19-6-104 of the Utah Solid and Hazardous Waste Act authorizes the Board to issue orders and approve or disapprove settlements negotiated by the Director with a civil penalty over $25,000.
Is Board action required?	Yes, this is an action item before the Board.
What is the Division Director's recommendation?	The Director recommends the Board approve the Proposed SCO.
Where can more information be obtained?	For technical information, please contact Judy Moran at 385-499-0184. For legal information, please contact Brenden Catt at 385-379-2591. **The supporting documentation was provided in the November 14, 2024 Board packet.**