



State of Utah

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Department of
Environmental Quality

Amanda Smith
Executive Director

DIVISION OF SOLID AND
HAZARDOUS WASTE
Scott T. Anderson
Director

Solid and Hazardous Waste Control Board

Kevin Murray, *Chair*
Dennis Riding, *Vice-Chair*
Eugene Cole, *DrPH*
Jeff Coombs, MPH, LEHS
Mark Franc
Brett Mickelson
Amanda Smith
Shane Whitney
Dwayne Woolley
Scott T. Anderson
Executive Secretary

A regular meeting of the Utah Solid and Hazardous Waste Control Board has been scheduled for March 13, 2014 at 3:00 p.m. at the Hampton Inn and Suites (Zion National Park), located at 1127 Zion Park Boulevard, Springdale, Utah.
(One or more Board members may participate telephonically.)

AGENDA

- I. Call to Order.
- II. Approval of the Meeting Minutes for the September 12, 2013 Board Meeting Tab 1
(Board Action Item)
- III. Underground Storage Tanks Update..... Tab 2
- IV. Approval to proceed with formal rulemaking and 30-day public comment period for proposed changes to the Hazardous Waste Rules, R315-1-1 and R315-2-4 Tab 3
(Board Action Item)
- V. Approval to proceed with formal rulemaking and 30-day public comment period for proposed changes to the Standards for Management of Used Oil, R315-15..... Tab 4
(Board Action Item)
- VI. Presentation on Recycling and Community Outreach Program.
- VII. Director’s Report.
- VIII. Other Business.
 - A. Legislative Update
 - B. Misc. Information Items
 - C. Scheduling of next meeting
- IX. Adjourn.

In compliance with the Americans with Disabilities Act, individuals with special needs (including auxiliary communicative aids and services) should contact Brooke Baker, Office of Human Resources, at (801) 536-4412 TDD (801) 536-4414.

Utah Solid and Hazardous Waste Control Board Meeting
Utah Department of Environmental Quality
195 North 1950 West (Conference Room #1015) SLC, Utah
September 12, 2013
1:30 p.m.

Board Members Present: Kevin Murray (Chair), Dennis Riding (Vice-Chair), Eugene Cole, Jeff Coombs, Mark Franc, Brett Mickelson, Amanda Smith, Shane Whitney and Dwayne Woolley

Board Members Absent: None

Staff Members Present: Scott Anderson, Brent Everett, Therron Blatter, Edward Costomiris, Karen Keller, Arlene Lovato, Terry Montgomery, Deborah Ng, Don Verbica, Otis Willoughby and Raymond Wixom

Others Present: Kerry Cramer, David Gibby, Lon Griffith, Sean McCandless, Tim Orton, Vern Rogers, Dan Shrum and Shane Whitney

I. Call to Order.

Kevin Murray (Chair) called the meeting to order at 1:33 p.m.

II. Approval of the Meeting Minutes for the June 13, 2013 Board Meeting.

It was moved by Brett Mickelson and seconded by Dwayne Woolley and UNANIMOUSLY CARRIED to approve the June 13, 2013 Board meeting minutes.

III. Underground Storage Tanks Update.

Brent Everett informed the Board that the preliminary cash balance of the Petroleum Storage Tank (PST) Trust Fund at the end of August 2013 was \$11,993,447.00. The actual cash balance of the PST Trust fund at the end of July 2013 was \$12,136,099.00. The Division of Environmental Response and Remediation (DERR) will continue to watch the cash balance to ensure sufficient coverage for the petroleum release liabilities that are covered by the PST Trust Fund.

Mr. Everett also updated the Board on the PST Viability study that was legislatively directed to be completed by the DERR this year. Pinnacle Actuarial is conducting the study. A draft report is scheduled to be completed the end of September 2013. The final actuarial review report of the PST Fund and additional elements requested by the Legislature is due October 31, 2013. The findings of the study will be reported to the Legislative Interim Committee in November 2013.

Mr. Everett informed the Board that Wind River has made a request for agency action regarding the Corrective Action Plan which was conditionally approved by the DERR Director for the release from the Top Stop located in Gunnison, Utah. An administrative law judge has been appointed to review the request. Prior to the passage of SB11 in the 2012 Legislative Session, this request would have been brought before the Board.

During the 2013 legislative session, there was a statute change regarding the Underground Storage Tank (UST) program. This change allows DERR to place a red tag on USTs that are not in compliance. This tag prohibits fuel delivery to a tank that has a red tag. This change was due to requests from the industry to look at the previous green tag process which required a green tag to be placed on a tank to show compliance in order to receive fuel deliveries. There was a replacement fee of \$25.00 each time a green tag was lost. The

change to a red tag for a tank that is not in compliance verses a green tag for a tank that is in compliance is a cost savings for both the industry and the DERR. The new fee schedule for Utah Department of Environmental Quality (UDEQ) has proposed to drop the \$25.00 replacement fee for a green tag and institute a \$500.00 fee for the replacement of a red tag if it is removed without authorization. The \$500.00 is tied to the cost that it would take for DERR personnel to go into the field, replace a red tag and process the paperwork to show that a red tag has been replaced. The DERR does not anticipate having to assess this fee often. The UDEQ fee hearing was held this past week. This fee has also been discussed with the UST Advisory Task Force to solicit input. The proposed fee schedule will be considered by the Legislature in the 2014 Session.

Dwayne Woolley asked how DERR would know if a red tag had been removed in order to assess the fee.

Mr. Everett responded that the DERR could be notified through inspections or individuals that are delivering fuel. It is possible that the DERR will not know until after the fact.

Dennis Riding noted the fee discussed by the UST Advisory Task Force was lower. He wanted to know if the DERR had reevaluated the cost of replacement.

Mr. Everett stated that the \$500.00 amount was based on the greatest cost to replace a tag. The fee is also consistent with penalties within the statute. While this is not a penalty, it is a consistent value related to other infractions that may occur at a facility.

IV. Hazardous Waste Section.

A. EnergySolutions LLC request for a site-specific treatment variance. (Board Action Item)

Otis Willoughby, Environmental Scientist, Hazardous Waste Section, informed the Board that EnergySolutions LLC has requested a one-time, site-specific treatment variance for management of mixed waste at its Mixed Waste Facility. Since a Board meeting was not held in August, the variance request was presented for the first time with a request for Board action.

Tim Orton, EnergySolutions, informed the Board that it has approved EnergySolutions to accept this type of waste from this generator over the past several years (2007-2012). This waste stream has been shipped to EnergySolutions at a slow continuous rate and the variance request is for the ongoing processing and disposal of the waste. EnergySolutions will disposal of approximately 900 cubic feet of waste from the DOE facility.

The request is to continue receiving cemented monoliths containing enriched uranium residuals. This material retains characteristic hazardous waste codes for barium, cadmium, chromium, and lead, and listed hazardous waste codes F001, F002, F005, D005, D006, D007, and D008. EnergySolutions proposes to treat this waste by macroencapsulation in the Mixed Waste Landfill cell rather than chemical stabilization as required.

This request is based on the fact that the waste has been already been encapsulated in concrete at the generator's site. Treating this waste by the required method would require grinding the waste and potentially exposing workers to unnecessary contamination. The proposed treatment will further encapsulate the waste and protect it from contact with precipitation, thereby decreasing the potential of leaching.

Marc Franc asked what kind of cement is used in macroencapsulation, which involves putting the waste into 2 ½ gallon containers, placing the containers in a 16-gallon monolith and filling the void spaces with cement.

Mr. Orton explained that the generator encapsulates the waste in concrete for security reasons, prior to it being shipped to EnergySolutions. This waste meets all the licensing conditions required for radioactive waste to be disposed at the facility. Mr. Orton further explained that the waste is placed in the landfill in specially designed vaults with special permeable cement developed by EnergySolutions, which has been approved by the Division. When the waste arrives at EnergySolutions, it will be placed in special vaults and cemented over with Portland cement, which contains other amenities to make it less permeable and more robust so it will not crack or break.

Dwayne Woolley asked if the placement of the waste in 16-gallon monoliths is a requirement or if there are other options to treat the waste. Mr. Orton explained that DOE will not allow the waste to leave their facilities, except through the established method discussed above. The waste is also handled in this manner for transportation purposes.

A 30-day public comment period began on August 13, 2013 and concluded on September 11, 2013. No comments were received. A public hearing was held on August 28, 2013. No comments were received. The Director recommends approval of this request.

It was moved by Marc Franc and seconded by Dennis Riding and UNANIMOUSLY CARRIED to approve *EnergySolutions'* request for a site-specific treatment variance.

V. Certified Clandestine Drug-Lab Decontamination Specialist Program Overview.

Karen Keller, Division of Environmental Response and Remediation, gave an overview of the Division's Clandestine Drug Lab Decontamination Certification Program. A copy of the presentation is included in the minutes.

VI. Director's Report.

Scott Anderson reviewed recent changes in staff/manager assignments in the various programs of the Division. The changes will give current staff members and managers an opportunity to learn new programs, take on new assignments, and provide cross-training opportunities. This will help develop and maintain the needed expertise to implement the various programs in the Division as program needs change and staff members retire. A new organizational chart was given to Board members. (A copy is available in the meeting minutes.) The new staff assignments became effective earlier this month.

Mr. Anderson reviewed the Recycling/Outreach Program. This program provides information to public associations, trade groups, high schools, and any other interested organizations regarding the recycling of used oil and other materials.

Mr. Anderson reported that Deborah Ng, Manager of the Recycling/ Community Outreach Program is directing a major revision of the Used Oil Rules. This effort is intended to clarify and simplify the current rules. Draft rules have been distributed to stakeholders for comment and an assessment of those comments is now underway. It is anticipated that the proposed rule changes will be presented to the Board for formal rulemaking in the near future.

Mr. Anderson informed the Board that Energy Recycling Technologies LP received a permit to operate a tire pyrolysis facility. This facility will thermally treat tires to produce oil which will be processed into alternative diesel, alternative gasoline, and heavy residual oil to be sold as commodities.

An application for a Construction Demolition (C&D) Permit received from the Mountain View Landfill is currently under review.

Mr. Anderson gave a brief update on the corrective action activities at Anderson Geneva, which recently held an open house to outline its vision for the future. There are approximately 200 solid waste management units scattered over the site (1,800 acres), which will be assessed and remediated, depending on future land use. The trigger for the corrective action activities at this facility is the permit obtained many years ago by U.S. Steel for three hazardous waste surface impoundments that are now closed in place. This site contains a series of groundwater monitoring wells and contamination continues to be monitored under site management plans.

Mr. Anderson informed the Board that a draft hazardous waste storage and treatment permit has been prepared for the Utah Test and Training Range. The range is used by Hill Air Force Base for training. This permit includes provisions for open burning/open detonation of waste explosives and other energetics. A public comment period is currently underway.

VII. Other Business.

The next Board meeting is scheduled for October 10, 2013 at 1:30 p.m. in the UDEQ Conference Room #1015.

Dwayne Woolley asked the Board to consider holding the March 13, 2014 Board meeting in St. George, Utah in conjunction with the Solid Waste Association of North America (SWANA) meetings. Scott Anderson informed the Board that, over the years, Board meetings have been held at other locations around the state, and if the Board desires, the logistic and reimbursement matters could be handled to accommodate a meeting in St. George.

Mr. Anderson noted that tours of various solid waste management facilities located in the St. George area could be considered if Board members were interested. Also, meeting in a different location will allow individuals in this area of the state, including local health department staff members, the opportunity to attend a Board meeting.

All Board members were supportive of having the March 13, 2014 Board meeting in St. George, Utah in conjunction with the SWANA meetings.

Mr. Anderson also reminded the Board that it is required to meet once during the 2014 legislative session, either February or March 2014.

A brief discussion took place regarding the 2014 Legislative Session. Mr. Anderson informed the Board of the following matters that may be addressed during the 2014 Legislative Session: (1) Relocation of the Stericycle Medical Incinerator located in North Salt Lake; (2) Paint Stewardship Program to develop and fund a program for the management and disposal of waste paint; (3) Additional statutory authority to permit certain waste management facilities associated with the oil and gas exploration industry.

VIII. Adjourn.

The meeting adjourned at 2:30 p.m.

UST STATISTICAL SUMMARY
February 1, 2013 -- January 1, 2014

PROGRAM													
	February	March	April	May	June	July	August	September	October	November	December	January	(+/-) OR Total
Regulated Tanks	3,756	3,758	3,766	3,760	3,756	3,753	3,745	3,744	3,737	3,740	3,734	3,738	(18)
Tanks with Certificate of Compliance	3,688	3,687	3,681	3,679	3,678	3,674	3,668	3,666	3,669	3,676	3,678	3,687	(1)
Tanks without COC	68	71	85	81	78	79	77	78	68	64	56	51	(17)
Cumulative Facilities with Registered A Operators	1,356	1,355	1,362	1,363	1,362	1,363	1,362	1,363	1,363	1,363	1,362	1,367	98.63%
Cumulative Facilities with Registered B Operators	1,356	1,355	1,363	1,364	1,363	1,363	1,362	1,363	1,363	1,363	1,362	1,366	98.56%
New LUST Sites	13	4	4	7	5	7	3	4	7	5	1	3	63
Closed LUST Sites	9	13	10	2	5	10	2	12	3	12	12	4	94
Cumulative Closed LUST Sites	4575	4586	4600	4601	4609	4617	4617	4629	4642	4653	4663	4670	95
FINANCIAL													
	February	March	April	May	June	July	August	September	October	November	December	January	(+/-)
Tanks on PST Fund	2,817	2,816	2,806	2,805	2,801	2,796	2,790	2,788	2,779	2,772	2,772	2,782	(35)
PST Claims (Cumulative)	610	615	617	620	622	618	621	621	617	615	614	617	7
Equity Balance	-\$19,622,110	-\$19,608,086	-\$19,285,917	-\$19,076,909	-\$19,065,080	-\$18,889,426	-\$19,035,717	-\$15,578,383	-\$15,784,481	-\$15,894,500	-\$15,511,182	-\$15,925,567	\$3,696,543
Cash Balance	\$11,407,054	\$11,421,077	\$11,743,246	\$11,952,254	\$11,964,083	\$12,139,737	\$11,854,433	\$12,006,486	\$11,800,387	\$11,936,673	\$12,073,687	\$11,659,302	\$252,248
Loans	0	0	0	0	0	0	0	0	0	0	0	0	0
Cumulative Loans	94	94	94	94	94	94	94	94	94	94	94	94	0
Cumulative Amount	\$2,912,795	\$2,912,795	\$2,912,795	\$2,912,795	\$2,912,795	\$2,912,795	\$2,912,795	\$2,912,795	\$2,912,795	\$2,912,795	\$2,912,795	\$2,912,975	\$180
Defaults/Amount	0	0	0	0	0	0	0	0	0	0	0	0	0
	February	March	April	May	June	July	August	September	October	November	December	January	TOTAL
Speed Memos	22	37	47	49	67	42	35	19	34	25	21	19	417
Compliance Letters	8	4	3	4	9	11	15	7	1	6	6	2	76
Notice of Intent to Revoke	1	0	0	3	2	0	0	0	0	0	0	0	6
Orders	2	5	2	0	1	0	2	0	3	2	2	2	21

UTAH SOLID AND HAZARDOUS WASTE CONTROL BOARD

Executive Summary

Proposed Changes to the Hazardous Waste Rules

What is the issue before the Board?	The Division is proposing to modify R315-1-1 and R315-2-4 of the Utah Administrative Code to allow some cloth and paper material that have been contaminated with certain solvents that are listed as a hazardous waste to be disposed as a solid waste or laundered.
What is the historical background or context for this issue?	The USEPA has conducted a risk assessment for the disposal or cleaning of rags and wipes that have been contaminated with several types of solvents. Formerly, these rags and wipes were defined as a hazardous waste. The results of the risk assessment indicated that these materials, when disposed in a lined, non-hazardous solid waste landfill or when laundered do not present an unacceptable risk to human health and the environment. As a result of the risk assessment, the USEPA has modified the federal rules to allow disposal of these wastes in a non-hazardous solid waste landfill or laundering.
What is the governing statutory or regulatory citation?	Utah Code Annotated 19-6-105 allows the Board to make rules establishing standards for the disposal of hazardous and non-hazardous waste. Utah Code Annotated 19-6-106 requires that these rules be no more stringent than the corresponding federal regulation.
Is Board action required?	Yes. The Board must approve the publication of the rules in the Utah Bulletin to begin the formal rule making process.
What is the Division Director's recommendation?	The Director recommends that the Board approve the publication of Rule R315-1-1 and R315-2-4 to begin the formal public comment process.
Where can more information be obtained?	For more information, please contact Tina Mercer at (801) 536-0259 or Ralph Bohn at (801) 536-0212. The rule making package can be viewed on the Division web page at: http://www.hazardouswaste.utah.gov/Rules/ProposedHazardousWasteRules.htm

R315. Environmental Quality, Solid and Hazardous Waste.

R315-1. Utah Hazardous Waste Definitions and References.

R315-1-1. Definitions.

(a) Terms used in R315-1 through R315-101 are defined in Sections 19-1-103 and 19-6-102.

(b) For R315-1 through R315-101, the terms defined in 40 CFR 260.10, 264.18(a)(2), and 279.1, 2010 ed., are adopted and incorporated by reference with the following revisions:

(1) Substitute "Director of the Division of Solid and Hazardous Waste" for "Regional Administrator" or "Administrator," except in the following cases:

(i) In the actual definitions of "Administrator" and "Regional Administrator;" and

(ii) In the definitions of "hazardous waste constituent" and "industrial furnace," "Board" shall be substituted.

(2) Insert in the definition of "existing tank system" or "existing component" the following additional phrase 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 R315. A non-HSWA existing tank system or non-HSWA tank component is one which does not implement any of the requirements of the federal Hazardous and Solid Waste Amendments of 1984 (HSWA) as identified in Table 1 of 40 CFR 271.1."

(3) Insert in the definition of "new tank system" or "new tank component" the following additional phrase 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 R315; except, however, for purposes of 40 CFR 265.193(g)(2) and 40 CFR 264.193(g)(2), a new tank system is one which construction commences after July 14, 1986. A non-HSWA new tank system or non-HSWA new tank component is one which does not implement any of the requirements of the federal Hazardous and Solid Waste Amendments of 1984 (HSWA) as identified in Table 1 of 40 CFR 271.1."

(c) The terms defined in 40 CFR 261.1(c), 2010 ed., are adopted and incorporated by reference.

(d) For purposes of R315-3 regarding application and permit procedures for hazardous waste facilities, the terms defined in 40 CFR 270.2, 1999 ed., are adopted and incorporated by reference with the following revisions:

(1) "Permit" means the plan approval as required by subsection 19-6-108(3)(a), or equivalent control document issued by the Director to implement the requirements of the Utah Solid and Hazardous Waste Act;

(2) "Director" or "State Director" means the Director of the Division of Solid and Hazardous Waste, and

(3) Replace existing definition of "corrective action management unit" with the definition as found in 40 CFR 260.10,

2000 ed.

(e) The definitions of "Polychlorinated biphenyl, PCB," and "Polychlorinated item" as found in 761.3, 40 CFR, 1990 ed., are adopted and incorporated by reference.

(f) In addition, the following terms are defined as follows:

(1) "Approved hazardous waste management facility" or "approved facility" means a hazardous waste treatment, storage, or disposal facility which has received an EPA permit in accordance with federal requirements, has been approved under 19-6-108 and R315-3, or has been permitted or approved under any other EPA authorized hazardous waste state program.

(2) "Director" means the Director of the Division of Solid and Hazardous Waste.

(3) "Division" means the Division of Solid and Hazardous Waste.

(4) "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 R315-2-9.

(5) "Monitoring" means all 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.

(6) "No free liquids" as used in R315-2-4(a)(23) and R315-2-4(b)(16), 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, as incorporated by reference in 40 CFR 260.11, see R315-1-2, and that there is no free liquid in the container holding the wipes.

[~~(6)~~](7) "POHC's" means principle organic hazardous constituents.

[~~(7)~~](8) "Permittee" means any person who has received an approval of a hazardous waste operation plan under 19-6-108 and R315-3 or a Federal RCRA permit for a treatment, storage, or disposal facility.

[~~(8)~~](9) "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 R315-2-9, it qualifies as "precipitation run-off" if the water does not exhibit any of the characteristics identified in R315-2-9. If the precipitation run-off has been in contact with a waste listed in R315-2-10 or R315-2-11, then it qualifies as "precipitation run-off" when the water has been excluded under R315-2-16. Water containing any leachate does not qualify as "precipitation run-off".

(10) "Solvent-contaminated wipe" means:

(1) A wipe that, after use or after cleaning up a spill, either:

(i) Contains one or more of the F001 through F005 solvents found in R315-2-10(e), which incorporates by reference 40 CFR

261.31 or the corresponding P- or U- listed solvents found in R315-2-11, which incorporates by reference 40 CFR 261.33;

(ii) Exhibits a hazardous characteristic found in R315-2-9(a) when that characteristic results from a solvent found in R315-2-10, which incorporates by reference 40 CFR part 261; and/or

(iii) Exhibits only the hazardous waste characteristic of ignitability found in R315-2-9(d) due to the presence of one or more solvents that are not listed in R315-2-10 which incorporates by reference 40 CFR part 261.

(2) 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 R315-2-4(a)(23) and R315-2-4(b)(16).

[~~(9)~~](11) "Spill" means the accidental discharging, spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous wastes or materials which, when spilled, become hazardous wastes, into or on any land or water.

[~~(10)~~](12) "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.

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

(g) Terms used in R315-15 are defined in sections 19-6-703 and 19-6-706(2)(b)(ii).

(h) For purposes of R315-101 regarding cleanup action and risk-based closure standards, the following terms are defined as follows:

(1) "The concentration term, C" is calculated as the 95% upper confidence limit, UCL, on the arithmetic average for normally distributed data, or as the 95% upper confidence limit on the arithmetic average for lognormally distributed data. For normally distributed data, $C = \text{Mean} + t \times \text{Standard Deviation}/n^{1/2}$, where n is the number of observations, and t is Student's t distribution (at the 95% one-sided confidence level and n-1 degrees of freedom), tables of which are printed in most introductory statistics textbooks. For lognormally distributed data, $C = \exp(\text{Mean of lognormal-transformed data} + 0.5 \times \text{Variance of lognormal-transformed data} + \text{Standard Deviation of lognormal-transformed data} \times H/(n - 1)^{1/2})$, where n is the number of observations, and H is Land's H statistic (at the 95% one-sided confidence level), tables of which are printed in advanced statistics books. For data which are not normally nor lognormally distributed, appropriate statistics, such as nonparametric confidence limits, shall be applied.

(2) "Area of contamination" means a hazardous waste management unit or an area where a release has occurred. The boundary is defined as the furthest extent where contamination from a defined source has migrated in any medium at the time the release is first identified.

(3) "Contaminate" means to render a medium polluted through the introduction of hazardous waste or hazardous constituents as identified in R315-50-10, which incorporates by reference 40 CFR 261, Appendix VIII.

(4) "Hazard index" means the sum of more than one hazard quotient for multiple substances, multiple exposure pathways, or both. The Hazard Index is calculated separately for chronic, subchronic, and shorter duration exposures.

(5) "Hazard quotient" means the ratio of a single substance exposure level over a specified time period, e.g. subchronic, to a reference dose for that substance derived from a similar exposure period.

(6) "Risk-based closure" means closure of a site where hazardous waste was managed or any medium has been contaminated by a release of hazardous waste or hazardous constituents, and where hazardous waste or hazardous constituents remain at the site in any medium at concentrations determined, under this rule, to cause minimal levels of risk to human health and the environment so as to require no further action or monitoring on the part of the responsible party nor any notice of hazardous waste management on the deed to the property.

(7) "Reasonable maximum exposure (RME)" means the highest exposure that is reasonably expected to occur at a site. The goal of RME is to combine upper-bound and mid-range exposure factors so that the result represents an exposure scenario that is both protective and reasonable; not the worst possible case.

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

(9) "Responsible party" means the owner or operator of a facility, or any other person responsible for the release of hazardous waste or hazardous constituents.

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

R315-1-2. References.

(a) For purposes of R315-1 through R315-101, the publication references of 40 CFR 260.11, 2006 ed., are adopted and incorporated by reference.

(b) R315-1 through R315-101 incorporate by reference a number of provisions from 40 CFR. The incorporated provisions sometimes include cross-references to other sections of 40 CFR. Wherever there are sections in R315-1 through R315-101 that correspond to those cross-references, the cross-references of 40

CFR are not incorporated into R315-1 through R315-101. Instead, the corresponding sections in R315-1 through R315-101 shall apply.

Note: The following materials are available for purchase from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (703) 605-6000 or (800) 553-6847; or for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800.

"APTI Course 415: Control of Gaseous Emissions," EPA Publication EPA-450/2-81-005, December 1981.

KEY: hazardous waste

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

Notice of Continuation: July 13, 2011

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

R315. Environmental Quality, Solid and Hazardous Waste.

R315-2. General Requirements - Identification and Listing of Hazardous Waste.

R315-2-4. Exclusions.

(a) MATERIALS WHICH ARE NOT SOLID WASTES.

The following materials are not solid wastes for the purpose of this rule:

(1) Domestic sewage or any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly-owned treatment works for treatment. "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. Section 2011 et seq.

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

(6) Pulping liquors, 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 R315-1-1(c), which incorporates by reference 40 CFR 261.1(c).

(7) Spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively as defined in subsection R315-1-1(c), which incorporates by reference 40 CFR 261.1(c).

(8) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated where 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 such tanks for over twelve 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; and

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

(iii) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in R315-2-4(a)(9)(i) and (ii), so long as they meet all of the following conditions:

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

(B) Prior to 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 and/or spent wood preserving solutions prior to reuse can be visually or otherwise determined to prevent such releases;

(D) Any drip pad used to manage the wastewaters and/or spent wood preserving solutions prior to reuse complies with the standards in R315-7-28, which incorporates by reference 40 CFR 265.440 - 445, regardless of whether the plant generates a total of less than 100 kg/month of hazardous waste; and

(E) Prior to operating pursuant to this exclusion, the plant owner or operator submits to the Director a one-time notification stating that the plant intends to claim the exclusion, giving the date on which 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 must maintain a copy of that document in its on-site records for a period of no less than 3 years from the date specified in the notice. The exclusion applies only so long as the plant meets all 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 all conditions and that 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 (TC) specified in R315-2-9(g) when, subsequent to generation, these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar or are mixed with coal tar prior to 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 the 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, i.e., 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 distillation, catalytic cracking, fractionation, gasification (as defined in R315-1-1(b), which incorporates by reference 40 CFR 260.10), or thermal cracking units, i.e., 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 this paragraph, provided that the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated, or sent directly to another petroleum refinery, and still be excluded under this provision. Except as provided in R315-2-4(a)(12)(ii), oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry, i.e., from sources other than petroleum refineries, are not excluded under R315-2-4. Residuals generated from processing or recycling materials excluded under this paragraph (a)(12)(i), where such materials as generated would have otherwise met a listing under R315-2-10, R315-2-11, R315-2-24, and R315-2-26, are designated as F037 listed wastes when disposed of or intended for disposal.

(ii) Recovered oil that is recycled in the same manner and with the same conditions as described in R315-2-4(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 5152.) Recovered oil does not include oil-bearing hazardous wastes listed in R315-2-10, R315-2-11, R315-2-24, and R315-2-26; however, oil recovered from such wastes may be considered recovered oil. Recovered oil does not include used oil as defined in 19-6-703(19).

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

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

(i) Stored in containers sufficient to prevent a release to the environment prior to 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) Comparable fuels or comparable syngas fuels that meet the requirements of R315-2-26, which incorporates by reference 40 CFR 261.38.

(17) Spent materials as defined in R315-1-1(c), which incorporates by reference 40 CFR 261.1, other than hazardous

wastes listed in R315-2-10, 2-11, and 2-26 (which incorporate by reference 40 CFR 261 Subpart D), and R315-2-24, generated within the primary mineral processing industry from which minerals, acids, cyanide, water or other values are recovered by mineral processing or by beneficiation, provided that:

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

(ii) The spent material is not accumulated speculatively;

(iii) Except as provided in R315-2-4(a)(17)(iv), the spent material is stored in tanks, containers, or buildings meeting the following minimum integrity standards: a building must be an engineered structure with a floor, walls, and a roof all of which are 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 must be free standing, not be a surface impoundment as defined R315-1-1(b), which incorporates by reference 40 CFR 260.10, and be manufactured of a material suitable for containment of its contents; a container must be free standing and be manufactured of a material suitable for containment of its contents. If tanks or containers contain any particulate which may be subject to wind dispersal, the owner/operator must operate these units in a manner which controls fugitive dust. Tanks, containers, and buildings must 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 materials may be placed on pads, rather than in tanks, containers, or buildings. Solid mineral processing spent materials do not contain any free liquid. The Director must affirm that pads are designed, constructed and operated to prevent significant releases of the secondary material into the environment. Pads must provide the same degree of containment afforded by the non-RCRA tanks, containers and buildings eligible for exclusion.

(A) The Director must 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: the volume and physical and chemical properties of the secondary material, including its potential for migration off the pad; the potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway, and the possibility and extent of harm to human and environmental receptors via each exposure pathway.

(B) Pads must 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/runoff controls, be operated in a manner which controls fugitive dust, and have integrity assurance through inspections and maintenance programs.

(C) Before making a determination under this paragraph, the Director must provide notice and the opportunity for comment to all persons 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: the 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 must be updated when there is a change in the type of materials recycled or the location of the recycling process.

(vi) For purposes of R315-2-4(b)(7), mineral processing spent materials must 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.

(vii) R315-2-4(a)(16) becomes effective July 1, 1999.

(18) Petrochemical recovered oil from an associated organic chemical manufacturing facility, where 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 R315-2-9(d), and/or toxicity for benzene, R315-2-9(g), 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 the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. "Petrochemical recovered oil" is oil that has been reclaimed from secondary materials, i.e., 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 R315-1-1(c), which incorporates by reference 40 CFR 261.1(c).

(20) Hazardous secondary materials used to make zinc fertilizers, provided that the conditions specified below are satisfied:

(i) Hazardous secondary materials used to make zinc micronutrient fertilizers must not be accumulated speculatively, as defined in R315-1-1(c) which incorporates by reference 40 CFR 261.1(c)(8).

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

(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 R315-2-4(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 must be an engineered structure made of non-earthen materials that provide structural support, and must have a floor, walls and a roof that prevent wind dispersal and contact with rainwater. Tanks used for this purpose must be structurally sound and, if outdoors, must have roofs or covers that prevent contact with wind and rain. Containers used for this purpose must be kept closed except when it is necessary to add or remove material, and must be in sound condition. Containers that are stored outdoors must be managed within storage areas that:

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

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

(3) 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 R315-2-4(a)(20).

(D) Maintain at the generator's or intermediate handler's facility for no less than three years records of all shipments of excluded hazardous secondary materials. For each shipment these records must at a minimum contain the following information:

(1) Name of the transporter and date of the shipment;

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

(3) 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 must:

(A) Store excluded hazardous secondary materials in accordance with the storage requirements for generators and intermediate handlers, as specified in R315-2-4(a)(20)(ii)(B).

(B) 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 R315-2-4(a)(20).

(C) Maintain for a minimum of three years records of all shipments of excluded hazardous secondary materials received by the manufacturer, which must 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.

(D) Submit to the Director an annual report that identifies the total quantities of all 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 process(s) from which they were generated.

(iv) Nothing in this section preempts, overrides or otherwise negates the provision in R315-5-1.11, which incorporates by reference 40 CFR 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 prior to the submission of the one-time notice described in R315-2-4(a)(20)(ii)(A), and that afterward will be used only to store hazardous secondary materials excluded under this paragraph, are not subject to the closure requirements of R315-7 and R315-8.

(21) Zinc fertilizers made from hazardous wastes, or hazardous secondary materials that are excluded under R315-2-4(a)(20), provided that:

(i) The fertilizers meet the following contaminant limits:

(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

(B) For dioxin contaminants the fertilizer must 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 six months, and for dioxins no less than every twelve months. Testing must also be performed whenever 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 all sampling and analyses performed for purposes of determining compliance with the requirements of R315-2-4(a)(21)(ii). Such records must 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(s) 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 analyses of the samples were performed;

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

(F) All laboratory analytical results used to determine compliance with the contaminant limits specified in R315-2-4(a)(21).

(22) Used cathode ray tubes (CRTs)

(i) Used, intact CRTs as defined in R315-1-1(b), which incorporates by reference 40 CFR 260.10, are not solid wastes within the United States unless they are disposed, or unless they are speculatively accumulated as defined in R315-1-1(c), which incorporates by reference 40 CFR 261.1(c)(8), by CRT collectors or glass processors.

(ii) Used, intact CRTs as defined in R315-1-1(b), which incorporates by reference 40 CFR 260.10, are not solid wastes when exported for recycling provided that they meet the requirements of R315-2-27, which incorporates by reference 40 CFR 261.40.

(iii) Used, broken CRTs as defined in R315-1-1(b), which incorporates by reference 40 CFR 260.10, are not solid wastes provided that they meet the requirements of R315-2-27, which incorporates by reference 40 CFR 261.39.

(iv) Glass removed from CRTs is not a solid waste provided that it meets the requirements of R315-2-27, which incorporates by reference 40 CFR 261.39(c).

(23) Solvent-contaminated wipes that are sent for cleaning and reuse are not solid wastes from the point of generation, provided that

(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 must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, or when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all 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 prior to being sent for cleaning;

(iii) At the point of being sent for cleaning onsite or at the point of being transported off-site for cleaning, the solvent-contaminated wipes must contain no free liquids as defined in § 260.10 of this chapter.

(iv) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in R315-1 through R315-101;

(v) Generators must maintain at their site the following documentation:

(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 R315-2-4(a)(23)(ii) is being met;

(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;

(vi) 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.

(b) SOLID WASTES WHICH ARE NOT HAZARDOUS WASTES.

The following solid wastes 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 not be deemed to be treating, storing, disposing of or otherwise managing hazardous wastes for the purposes of regulation under this subtitle, if the facility:

(i) 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; and

(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 and which are returned to the soil 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) 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 R315-14-7, which incorporates by reference 40 CFR 266.112, for facilities that burn or process hazardous waste.

(5) Drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas or geothermal energy.

(6) The following additional solid wastes:

(i) Wastes which fail the test for the Toxicity Characteristic because chromium is present or are listed in sections R315-2-10 or R315-2-11 due to the presence of chromium, which 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 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 uses trivalent chromium exclusively, or nearly exclusively, and the process does not generate hexavalent chromium; and

(C) The waste is typically and frequently managed in non-oxidizing environments.

(ii) Specific wastes which meet the standard in paragraphs (b)(6)(i)(A), (B), and (C) of this section, so long as they do not fail the test for the toxicity 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 R315-14-7, which incorporates by reference 40 CFR 266.112 for facilities that burn or process hazardous waste.

(i) For purposes of R315-2-4(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 and/or carbon dioxide; roasting, autoclaving, and/or chlorination in preparation for leaching (except where the roasting (and/or autoclaving and/or chlorination)/leaching 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 R315-2-4(b)(7), solid waste from the processing of ores and minerals includes only the following wastes 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/sludge from iron blast furnaces;

(M) Iron blast furnace slag;

(N) Treated residue from roasting/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/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;

(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 R315-2-4(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 R315-14-7, which incorporates by reference 40 CFR 266.112, for facilities that burn or process hazardous waste.

(9) Solid waste which consists of discarded arsenical-treated wood or wood products which fails the test for the Toxicity Characteristic for Hazardous Waste Codes D004 through D017 and which 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 (TC) of R315-2-9(g), Hazardous Waste Codes D018 through D043 only, and are subject to the corrective action requirements under R311-202, which incorporates by reference 40 CFR 280.

(11) Injected groundwater that is hazardous only because it exhibits the Toxicity Characteristic, Hazardous Waste Codes D018 through D043 only, in R315-2-9(e) 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 contracts have been issued, on or before March 25, 1991.

For groundwater returned through infiltration galleries from such 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; and

(ii) A copy of the written agreement has been submitted to: Characteristics Section (OS-333), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 and the Division of Solid and Hazardous Waste, Dept. of Environmental Quality, State of Utah, 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) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.

(14) Non-terne plated used oil filters that are not mixed with wastes listed in R315-2-10(e) and (f) and R315-2-11, which incorporate by reference 40 CFR 261 Subpart D, if these oil filters have been gravity hot-drained using one of the following methods:

(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.

(15) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed, provided that:

(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 paragraph R315-2-4(b)(15)(i) were disposed prior to the effective date of the listing;

(iii) The leachate or gas condensate does 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 R317-8 of the Utah Water Quality Rules.

(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 prior to discharge. As of November 21, 2003, leachate or gas condensate derived from K176, K177, and K 178 is no longer exempt if it is stored or managed in a surface impoundment prior to 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 prior to discharge. There is one exception: if the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation, e.g., 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 this paragraph after the emergency ends.

(16) 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 that

(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 must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, or when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all 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 prior to being sent for disposal;

(iii) At the point of being transported for disposal, the solvent-contaminated wipes must contain no free liquids as defined in R315-1-1(e)(6).

(iv) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in R315-1 through R315-101;

(v) Generators must maintain at their site the following documentation:

(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 R315-4-(b)(16)(ii) is being met;

(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;

(vi) The solvent-contaminated wipes are sent for disposal

(A) To a municipal solid waste landfill:

(1) regulated under R315-301 through R315-320

(2) is a Class I or V Landfill; and

(3) has a composite liner;

(B) or to a hazardous waste landfill regulated under R315-1 through R315-101; 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 R315-7, R315-8 or R315-14-7, which incorporates by reference 266 subpart H.

(c) HAZARDOUS WASTES WHICH ARE EXEMPTED FROM CERTAIN RULES.

A hazardous waste which 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 these regulations or to the notification requirements of Section 3010 of RCRA until it exits the unit in which it was generated, 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 be operated for manufacturing, or for storage or transportation of products or raw materials.

(d) SAMPLES

(1) Except as provided in paragraph (d)(2) of this section, 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 compositions, is not subject to any requirements of these rules when:

(i) The sample is being transported to a laboratory for the purpose of testing;

(ii) The sample is being transported back to the sample collector after testing;

(iii) The sample is being stored by the sample collector before transport to a laboratory for testing;

(iv) The sample is being stored in a laboratory before testing;

(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 further testing of the sample may be necessary.

(2) In order to qualify for the exemption in paragraphs (d)(1)(i) and (ii) of this section, 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 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 accompanies the sample:

(1) The sample collector's name, mailing address, and telephone number;

(2) The laboratory's name, mailing address, and telephone number;

(3) The quantity of the sample;

(4) The date of shipment; and

(5) 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 paragraph (d)(1) of this section.

(e) TREATABILITY STUDY SAMPLES.

(1) Except as provided in paragraph (e)(2) of this Section, a person who generates or collects samples for the purpose of conducting treatability studies as defined in section R315-1-1, which incorporates by reference the definitions of 40 CFR 260.10, are not subject to any requirement of R315-2, R315-5, and R315-6, or to the notification requirements of Section 3010 of RCRA, nor are these samples included in the quantity determinations of R315-2-5, which incorporates by reference the requirements concerning conditionally exempt small quantity generators of 40 CFR 261.5 and R315-5-3.34, which incorporates by reference the requirements concerning waste accumulation time for generators of 40 CFR 262.34(d) when:

(i) the sample is being collected and prepared for transportation by the generator or sample collector;

(ii) the sample is being accumulated or stored by the generator or sample collector prior to 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 paragraph (e)(1) of this section is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies provided that:

(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;

(ii) The mass of each sample shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all 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 paragraph A or B of this subparagraph 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 shall accompany the sample:

(1) the name, mailing address, and telephone number of the originator of the sample;

(2) the name, address, and telephone number of the facility that will perform the treatability study;

(3) the quantity of the sample;

(4) the date of shipment; and

(5) a description of the sample, including its EPA Hazardous Waste Number.

(iv) the sample is shipped to a laboratory or testing facility which is exempt under R315-2-4(f) (40 CFR 261.4(f)) or has an appropriate RCRA permit or interim status;

(v) the generator or sample collector maintains the following records for a period ending 3 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:

(1) the amount of waste shipped under this exemption;

(2) the name, address, and EPA identification number of the laboratory or testing facility that received the waste;

(3) the date the shipment was made; and

(4) whether or not unused samples and residues were returned to the generator.

(vi) the generator reports the information required under paragraph (e)(v)(C) of this section 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 paragraphs (e)(2) (i) and (ii) and (f)(4) of this section, 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 such requests include the nature of the technology, the type of process, e.g., batch versus continuous, size of the unit undergoing testing, particularly in relation to

scale-up considerations, the time/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, when: There has been an equipment or mechanical failure during the conduct of a treatability study; there is a need to verify the results of a previously conducted treatability study; there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.

(iii) The additional quantities and time frames allowed in paragraph (e)(3) (i) and (ii) of this section are subject to all the provisions in paragraphs (e) (1) and (e)(2) (iii) through (vi) of this section. The generator or sample collector must apply to the Director and provide in writing the following information:

(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 all samples of hazardous waste from the waste stream which 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 it was shipped, 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 will be evaluated and the expected results;

(D) If such further study is being required due to equipment or mechanical failure, the applicant must 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) Such other information that the Director considers necessary.

(f) SAMPLES UNDERGOING TREATABILITY STUDIES AT LABORATORIES AND TESTING FACILITIES.

Samples undergoing treatability studies and the laboratory or testing facility that conducts these treatability studies, to the extent these facilities are not otherwise subject to RCRA requirements, are not subject to any requirement of this rule, R315-3 through R315-8, and R315-13, or to the notification requirements of Section 3010 of RCRA provided that the conditions of paragraphs (f)(1) through (11) of this Section are met. A mobile treatment unit (MTU) may qualify as a testing facility subject to paragraphs (f)(1) through (11) of this section. Where a group of MTUs are located at the same site, the limitations

specified in (f)(1) through (11) of this section 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 this paragraph.

(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 all 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, 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 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 all 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 estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes the following information 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 R315-2-3 and, if so, are subject to R315-2 through R315-8, and R315-13, unless the residues and unused samples are returned to the sample originator under the exemption of paragraph (e) of this section.

(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 this paragraph (g), the following definitions apply:

(1) The term dredged material has the same 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 the Utah State Division of Water Quality;

(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 paragraphs R315-2-4(g)(2)(i) and (ii), as provided for in Corps regulations.

KEY: hazardous waste, administrative procedures
Date of Enactment or Last Substantive Amendment: April 25, 2013
Notice of Continuation: July 13, 2011
Authorizing, and Implemented or Interpreted Law: 19-1-301; 19-6-
105; 19-6-106; 63G-4-201 through 205; 63G-4-503

UTAH SOLID AND HAZARDOUS WASTE CONTROL BOARD

Executive Summary

Proposed changes to the Used Oil Rules

What is the issue before the Board?	The Division is proposing changes to the Used Oil Rules, R315-15 of the Utah Administrative Code. The proposed changes will make the rule clearer, improve readability and update the rule in accordance with approved legislation. The rule also incorporates specific parts of the Used Oil Management Act (19-6-701 through 723) requirements to enhance compliance for the regulated community.
What is the historical background or context for this issue?	The Used Oil Rules were adopted in 1994. Parts of the rule have been modified several times but a general revision of the rules has not previously been done. The changes to the Used Oil Rules that are before the Board are an extensive revision that address several issues and clarify several parts of the rules. The proposed changes have been reviewed by the Attorney General's Office and by interested parties in the regulated community.
What is the governing statutory or regulatory citation?	Utah Code Annotated 19-6-704 authorizes the Board to make rules establishing standards to administer the Used Oil program.
Is Board action required?	Yes. The Board must approve the publication of the rules in the Utah Bulletin to begin the formal rule making process.
What is the Division Director's recommendation?	The Director recommends the Board approve the publication of changes to R315-15 of the Utah Administrative Code to begin the formal public comment process.
Where can more information be obtained?	For more information, please contact Tina Mercer at (801) 536-0259 or Deborah Ng at (801) 536-0218. The rule making package can be viewed on the Division web page at: http://www.hazardouswaste.utah.gov/Rules/ProposedUsedOilRules.htm

R315. Environmental Quality, Solid and Hazardous Waste.
R315-15. Standards for the Management of Used Oil.
R315-15-1. Applicability, Prohibitions, and Definitions.

1.1 APPLICABILITY

This section identifies those materials ~~[which]~~that are subject to regulation as used oil under ~~[Section]~~R315-15. This section also identifies some materials that are not subject to regulation as used oil under [Rule]R315-15, and indicates whether these materials may be ~~[subject to regulation]~~ a[s] hazardous waste as defined under ~~[Rules]~~R315-~~[1+2]~~1~~[through R315-14, and R315-50]~~.

(a) Used oil. It is presumed that used oil is to be recycled unless a used oil handler disposes of used oil~~[7]~~ or sends used oil for disposal. Except as provided in ~~[Section]~~R315-15-1.2, the requirements of ~~[Rule]~~R315-15 apply to used oil, and to materials identified in this section as being subject to regulation as used oil, whether or not the used oil or material exhibits any characteristics of hazardous waste identified in ~~[Section]~~R315-2-9.

(b) Mixtures of used oil and hazardous waste.

(1) Listed hazardous waste.

(i) Mixtures of used oil and hazardous waste which are~~[that is]~~ listed in ~~[Section]~~R315-2-10 are subject to regulation as hazardous waste under ~~[Rules]~~R315-~~[1+2]~~1~~[through R315-14, and R315-50,~~] rather than as used oil under ~~[Rule]~~R315-15.

(ii) Rebuttable presumption for used oil. Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in ~~[Section]~~R315-2-10. A[P]erson[s] may rebut this presumption by demonstrating that the used oil does not contain hazardous waste, for example, by using an analytical method from SW-846, Edition III Update IV to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in ~~[Section]~~R315-50-10, which incorporates by reference 40 CFR 261, Appendix VIII.~~[. SW-846, Edition III, is available for review during normal business hours at the Utah Division of Solid and Hazardous Waste office, located at 288 North 1460 West, Salt Lake City, Utah. To schedule an appointment, call 801-538-6170.]~~

(A) The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in ~~[Subsection]~~R315-15-2.5(c), to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner, or disposed.

(B) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

(2) Characteristic hazardous waste. A ~~[M]mixture[st]~~ of used oil and hazardous waste that solely exhibits one or more of the hazardous waste characteristics identified in ~~[Section—]R315-2-9~~ and a mixtures of used oil and hazardous waste that is listed in ~~[Section—]R315-2-10~~ solely because it exhibits one or more of the characteristics of hazardous waste identified in ~~[Section—]R315-2-9~~ are subject to:

(i) Except as provided in ~~[Subsection—]R315-15-1(b)(2)(iii)~~, regulation as hazardous waste under ~~[Rules—]R315-1~~ through ~~R315-14~~, and ~~R315-50~~ rather than as used oil under ~~[Rule—]R315-15~~, if the resultant mixture exhibits any characteristics of hazardous waste identified in ~~[Section—]R315-2-9~~; or

(ii) Except as specified in ~~[Subsection—]R315-15-1.1(b)(2)(iii)~~, regulation as used oil under ~~[Rule—]R315-15~~, if the resultant mixture does not exhibit any characteristics of hazardous waste identified under ~~[Section—]R315-2-9~~.

(iii) Regulation as used oil under ~~[Rule—]R315-15~~, if the mixture is of used oil and a waste which is hazardous solely because it exhibits the characteristic of ignitability, e.g., mineral spirits, provided that the mixture does not exhibit the characteristic of ignitability under ~~[Subsection—]R315-2-9(d)~~.

(3) Conditionally exempt small quantity generator hazardous waste. Mixtures of used oil and conditionally exempt small quantity generator hazardous waste regulated under ~~[Section—]R315-2-5~~, which incorporates by reference 40 CFR 261.5, are subject to regulation as used oil under ~~[Rule—]R315-15~~.

(c) Materials containing or otherwise contaminated with used oil.

(1) Except as provided in ~~[paragraph—]R315-15-1.1(c)(2)[—of this section,]~~ materials containing or otherwise contaminated with used oil from which the used oil has been properly drained or removed to the extent possible such that no visible signs of free-flowing oil remain in or on the material:

(i) Are not used oil and thus not subject to ~~[Rule—]R315-15~~, and

(ii) If applicable, are subject to the hazardous waste regulations ~~[of Rules—]R315-1~~ through ~~R315-14~~, ~~[and—]R315-50~~, and R315-101 and 102.

(2) Materials containing or otherwise contaminated with used

oil that are burned for energy recovery are subject to regulation as used oil under ~~[Rule]~~R315-15.

(3) Used oil drained or removed from materials containing or otherwise contaminated with used oil is subject to regulation as used oil under ~~[Rule]~~R315-15.

(d) Mixtures of used oil with products.

(1) Except as provided in ~~[paragraph]~~(d)(2) ~~[of this section]~~, mixtures of used oil and fuels or other fuel products are subject to regulation as used oil under ~~[Rule]~~R315-15.

(2) Mixtures of used oil and diesel fuel mixed on~~[-]~~ site by the generator of the used oil for use in the generator's own vehicles are not subject to ~~[Rule]~~R315-15 ~~[once]~~after the used oil and diesel fuel have been mixed. Prior to mixing, the used oil is subject to the requirements of ~~[Section]~~R315-15-2.

(e) Materials derived from used oil.

(1) Materials that are reclaimed from used oil that are used beneficially and are not burned for energy recovery or used in a manner constituting disposal, e.g., re-refined lubricants, are:

(i) Not used oil and thus are not subject to ~~[Rule]~~R315-15, and

(ii) Not solid wastes and are thus not subject to the hazardous waste regulations of ~~[Rules]~~R315-1 through R315-14~~[-]~~ and R315-50 as provided in ~~[Subsection]~~R315-2-3(c)(2)(i).

(2) Materials produced from used oil that are burned for energy recovery, e.g., used oil fuels, are subject to regulation as used oil under ~~[Rule]~~R315-15.

(3) Except as provided in R315-15.1.1 ~~[paragraph]~~(e)(4) ~~[of this section]~~, materials derived from used oil that are disposed of or used in a manner constituting disposal are:

(i) Not used oil and thus are not subject to ~~[Rule]~~R315-15, and

(ii) Are solid wastes and thus are subject to the hazardous waste regulations ~~[of Rules]~~R315-1 through R315-14, and R315-50 if the materials are listed or identified as hazardous wastes.

(4) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products are not subject to ~~[Rule]~~R315-15.

(f) Wastewater. Wastewater~~[-]~~contaminated with de minimis quantities of used oil, the discharge of which is subject to regulation under either section 402 or section 307(b) of the Clean Water Act, including wastewaters at facilities ~~[which]~~that have eliminated the discharge of wastewater, ~~[contaminated with de minimis quantities of used oil]~~ are not subject to the requirements of Rule R315-15. For purposes of this paragraph only, "de minimis" quantities of used oils are defined as small

spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations or small amounts of oil lost to the wastewater treatment system during washing or draining operations. This exception does not apply if the used oil is discarded as a result of abnormal manufacturing operations resulting in substantial leaks, spills, or other releases, or to used oil recovered from wastewaters.

(g) Used oil introduced into crude oil pipelines or a petroleum refining facility.

(1) Used oil mixed with crude oil or natural gas liquids, e.g., in a production separator or crude oil stock tank, for insertion into a crude oil pipeline is exempt from the requirements of ~~[Rule—]~~R315-15. The used oil is subject to the requirements of ~~[Rule—]~~R315-15 prior to the mixing of used oil with crude oil or natural gas liquids.

(2) Mixtures of used oil and crude oil or natural gas liquids containing less than 1% used oil that are being stored or transported to a crude oil pipeline or petroleum refining facility for insertion into the refining process at a point prior to crude distillation or catalytic cracking are exempt from the requirements of ~~[Rule—]~~R315-15.

(3) Used oil that is inserted into the petroleum refining facility process before crude distillation or catalytic cracking without prior mixing with crude oil is exempt from the requirements of ~~[Rule—]~~R315-15, provided that the used oil constitutes less than 1% of the crude oil feed to any petroleum refining facility process unit at any given time. Prior to insertion into the petroleum refining facility process, the used oil is subject to the requirements of ~~[Rule—]~~R315-15.

(4) Except as provided in ~~[paragraph]~~R315-15-1.1 (g)(5) ~~[of this section]~~, used oil that is introduced into a petroleum refining facility process after crude distillation or catalytic cracking is exempt from the requirements of ~~[Rule—]~~R315-15 only if the used oil meets the specification of ~~[Section—]~~R315-15-1.2. Prior to insertion into the petroleum refining facility process, the used oil is subject to the requirements of ~~[Rule—]~~R315-15.

(5) Used oil that is incidentally captured by a hydrocarbon recovery system or wastewater treatment system as part of routine process operations at a petroleum refining facility and inserted into the petroleum refining facility process is exempt from the requirements of ~~[Rule—]~~R315-15. This exemption does not extend to used oil ~~[which]~~that is intentionally introduced into a hydrocarbon recovery system, e.g., by pouring collected used oil into the waste water treatment system.

(6) Tank bottoms from stock tanks containing exempt mixtures

of used oil and crude oil or natural gas liquids are exempt from the requirements of ~~[Rule]~~R315-15.

(h) Used oil on vessels. Used oil produced on vessels from normal shipboard operations is not subject to Rule R315-15 until it is transported ashore.

(i) Used oil containing PCBs. In addition to the requirements of ~~[Rule]~~R315-15, marketers and burners of used oil who market used oil containing ~~[any quantifiable level of]~~PCBs at concentrations greater than or equal to 2 ppm are subject to the requirements found in R315-15-8 and 40 CFR 761.20(e).

(j) Inspections. Any duly authorized ~~[officer,]~~employee ~~[or representative of the Department or the Board may]~~of the Director, may, at any reasonable time and upon presentation of ~~[appropriate]~~credentials, ~~[and upon providing the opportunity to have a representative of the owner, operator, or agent in charge to be present, enter upon and inspect any property, premise, or place on or at which used oil is generated, transported, stored, treated or disposed of, and may]~~have access to and the right to copy any records relating to used oil, and inspect, audit, or sample. ~~[for purpose of ascertaining the compliance with Rule R315-15.]~~ The employee ~~[Those persons referred to in this section]~~ may also make record of the inspection by photographic, electronic, audio, video, or any other reasonable means. ~~[inspect any waste and obtain samples thereof, including samples from any vehicle in which wastes are being transported or samples of any containers or labels. Any person obtaining samples shall give to the owner, operator or agent a receipt describing the sample obtained and, if requested, a portion of each sample of waste equal in volume or weight to the portion retained. If any analysis is made of those samples, a copy of the results of that analysis shall be furnished promptly to the owner, operator, or agent in charge.]~~

(k) Violations, Orders, and Hearings. If the ~~[Executive Secretary]~~Director has reason to believe a person is in violation of any provision of ~~[Rule]~~R315-15, procedural requirements for compliance ~~[or cessation]~~ shall follow [Section]Utah Code Annotated 19-6-721 and Utah Administrative Code R305-7.

1.2 USED OIL SPECIFICATIONS

Used oil burned for energy recovery, and any fuel produced from used oil by processing, blending, or other treatment, is subject to regulation under ~~[Rule]~~R315-15 until:~~[unless it is shown not to exceed any of the allowable levels of the constituents and properties in the specification shown in Table 1.]~~

(a) It has been demonstrated not to exceed any allowable

levels of the constituents and properties shown in Table 1;

(b) ~~Once used oil that is to be burned for energy recovery has been shown not to exceed any specification and t~~The person making that claim complies with ~~Sections~~R315-15-7.3, R315-15-7.4, and ~~Subsection~~R315-15-7.5(b); and

(c) The used oil is delivered to a used oil burner.~~the used oil is no longer subject to Section R315-15-6.~~

TABLE 1

USED OIL NOT EXCEEDING ANY ALLOWABLE ~~SPECIFICATION~~ LEVEL IS NOT SUBJECT TO R315-15-6 WHEN BURNED FOR ENERGY RECOVERY(1)

Constituent/property	Allowable level
Arsenic	5 ppm maximum
Cadmium	2 ppm maximum
Chromium	10 ppm maximum
Lead	100 ppm maximum
Flash point	100 degrees F minimum
Total halogens	4,000 ppm maximum(2)

(1) The ~~specification~~allowable levels in Table 1 do[es] not apply to mixtures of used oil and hazardous waste that continue to be regulated as hazardous waste.~~]~~ S[ee ~~Subsection~~R315-15-1.1(b).

(2) Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste under the rebuttable presumption~~provided under~~ described in ~~Subsection~~R315-15-1.1(b)(1). Such used oil is subject to ~~Section~~R315-14-7~~],~~ which incorporates by reference 40 CFR 266 Subpart H, rather than ~~Rule~~R315-15 when burned for energy recovery unless the presumption of mixing can be successfully rebutted.

Note: Applicable standards for the marketing and burning of used oil containing any quantifiable level (2 ppm) of PCBs are found in ~~imposed by~~ 40 CFR 761.20(e), incorporated by reference, and R315-15-18. Prohibition of PCB oil dilution is described in 40 CFR 279.10 and 40 CFR 761.2(e).

1.3 PROHIBITIONS

Except as authorized by the ~~Board~~ Director, a person may not place, discard, or otherwise dispose of used oil in any of the following manners:

(a) Surface impoundment and waste piles ~~prohibition~~. Used oil shall not be managed in surface impoundments or waste piles unless the units are subject to regulation under ~~Rule~~R315-7 or R315-8.

(b) Use as a dust suppressant, weed suppressant, or for road oiling. The use of used oil as a dust suppressant, weed suppressant, or for road oiling or other similar use is prohibited. Any disposal of used oil on the ground is prohibited under ~~[Subsection]~~ Utah Code Annotated 19-6-706(1)(a)(iii).

(c) A person may not mix or commingle used oil with the following substances, except as incidental to the normal course of processing, mechanical, or industrial operations:

(1) Solid waste that is to be disposed of in any solid waste treatment, storage, or disposal facility, except as authorized by the ~~[Board]~~ Director; or

(2) Any hazardous waste so the resulting mixture may not be recycled or used for other beneficial purpose as authorized under ~~[Rule]~~ R315-15.

(d) Used oil shall not be disposed in a solid waste treatment, storage, or disposal facility, except for the disposal of hazardous used oil as authorized under R315-2.

(e) Used oil shall not be disposed in sewers, drainage systems, septic tanks, surface or ground waters, watercourses, or any body of water. ~~[+]~~

1.4 BURNING IN PARTICULAR UNITS

Burning in particular units. Off-specification used oil fuel may be burned for energy recovery only in the devices described in ~~[Subsection]~~ R315-15-6.2(a).

1.5 DISPOSAL OF DE MINIMIS USED OIL

(a) ~~[Section]~~ R315-15-1.3 does not apply to release of de minimis quantities of used oil identified under ~~[Subsection]~~ Utah Code Annotated 19-6-706(4)(a) except for the requirements of 19-6-706(i) and (ii).

(b) A person may dispose of an item or substance that contains de minimis amounts of oil in disposal facilities in accordance with Utah Code Annotated 19-6-706 (2) (a) if:

(1) To the extent that all oil has been reasonably ~~[possible all oil has been]~~ removed from the item or substance; and

(2) No free flowing oil remains in the item or substance.

1.6 ~~[DISPOSAL OF]~~ USED OIL FILTERS

(a) Disposal of Used Oil Filters. A person may dispose of a nonterne plated used oil filter as a non-hazardous solid waste when that filter is gravity hot-drained by one of the methods described in R315-15-1.6(b) and is not mixed with hazardous waste defined in R315-2. ~~[that meets the exclusion of Subsection R315-2-4(b)(14) and is not mixed with hazardous waste defined by Rule R315-2.]~~

(b) "Gravity hot-drained" means drained for not less than 12 hours near operating temperature but above 60 degrees Fahrenheit.

A nonterne used oil filter is a container of used oil and is subject to R315-15 until it is gravity hot-drained by one of the following methods:

(1) puncturing the filter anti-drain back valve or the filter dome end and gravity hot-draining;

(2) gravity hot-draining and crushing;

(3) dismantling and gravity hot-draining; or

(4) any other equivalent gravity hot-draining method authorized by the Director that will remove used oil from the filter at least as effectively as the methods listed in R315-15-1.6(b)(1) through (3).

1.7 DEFINITIONS

(a) Definitions of terms used in [Rule]R315-15 are found in: R315-1.7(b) through (j); and R315-1-1.[incorporated by reference in Section R315-1-1.]

(b) The [definition of the]term "de minimis[" quantities of used oil" [as used in Rule R315 15]defined in[has the same meaning as in Subsection]Utah Code Annotated 19-6-706(4)(b), and 19-6-708(3)(a) means small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations and does not apply to used oil discarded as a result of abnormal operations resulting in substantial leaks, spills, or other releases. Nor does it apply to accumulations of quantities of used oil that pose a potential threat to human health or the environment.

(c) [The definition of the term]"[f]Financial responsibility" [as used in Rule R315 15] means the mechanism by which a person who has a financial obligation satisfies that obligation.

(d) "Used oil" means any oil, refined from crude oil or synthetic oil, that has been used and as a result of that use is contaminated by physical or chemical impurities. 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.

(e) "Polychlorinated biphenyl (PCB)" means any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of substances which contains such substance.

(f) "On-specification used oil" means used oil that does not exceed levels of constituents and properties specified in R315-15-1.2.

(g) "Off-specification used oil" means used oil that exceeds levels of constituents and properties specified in R315-

15-1.2.

(h) "Parts per million (ppm)" means a weight-per-weight ratio used to describe concentrations. Parts per million (ppm) is the number of units of mass of a contaminant per million units of total mass (e.g., micrograms per gram).

1.8 LABORATORY ANALYSES

Laboratory analyses used to satisfy the requirements of R315-15 shall be performed by a laboratory that holds a current Utah Certification for environmental laboratories issued by the Utah Department of Health, Laboratory Improvement under R444-14 Utah Administrative Code. The laboratory shall be certified for the method(s) and analyte(s) applied to generate the environmental data.

R315-15-2. Standards for Used Oil Generators.

2.1 APPLICABILITY

(a) General. Except as provided in paragraphs (a)(1) through (a)(4) of this section, ~~[Section]~~R315-15-2 applies to all used oil generators. A used oil generator is any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

(1) Household "do-it-yourselfer" used oil generators. Household "do-it-yourselfer" used oil generators are not subject to regulation under ~~[Rule]~~R315-15, except for the prohibitions of ~~[Section]~~R315-15-1.3 and cleanup requirements of R315-15-9.

(2) Vessels. Vessels at sea or at port are not subject to ~~[Section]~~R315-15-2. For purposes of ~~[Section]~~R315-15-2, used oil produced on vessels from normal shipboard operations is considered to be generated at the time it is transported ashore. The owner or operator of the vessel and the person(s) removing or accepting used oil from the vessel are co-generators of the used oil and are both responsible for managing the used oil ~~[waste]~~ in compliance with ~~[Section]~~R315-15-2 once the used oil is transported ashore. The co-generators may decide among themselves which party will fulfill the requirements of ~~[Section]~~R315-15-2.

(3) Diesel fuel. Mixtures of used oil and diesel fuel mixed by the generator of the used oil for use in the generator's own vehicles are not subject to ~~[Rule]~~R315-15 once the used oil and diesel fuel have been mixed. Prior to mixing, the used oil fuel is subject to the requirements of ~~[Section]~~R315-15-2.

(4) Farmers. Farmers who generate an average of 25 gallons per month or less of used oil from vehicles or machinery used on the farm in a calendar year are not subject to the requirements of ~~[Rule]~~R315-15, except for the prohibitions of ~~[Section]~~R315-15-1.3 and cleanup requirements of R315-15-9.

(b) Other applicable provisions. Used oil generators who conduct the following activities are subject to the requirements of other applicable provisions of ~~[Rule]~~R315-15 as indicated in ~~[paragraphs]~~R315-15.2.1(b)(1) through (5) ~~[of this section]~~:

(1) Generators who transport used oil, except under the self-transport provisions of ~~[Subsections]~~R315-15-2.5(a) and (b), shall also comply with ~~[Section]~~R315-15-4.

(2)(i) Except as provided in ~~[paragraph]~~R315-15-2.1(b)(2)(ii) ~~[of this section]~~, generators who process or re-refine used oil must also comply with ~~[Section]~~R315-15-5.

(ii) Generators who perform the following activities are not processors, provided that the used oil is generated on ~~[site]~~ and is not being sent off ~~[site]~~ to a burner of on- or off-specification used oil fuel.

(A) Filtering, cleaning, or otherwise reconditioning used oil before returning it for reuse by the generator;

(B) Separating used oil from wastewater generated on ~~[site]~~ to make the wastewater acceptable for discharge or reuse ~~[pursuant]~~ in accordance with ~~[to]~~ section 402 or section 307(b) of the Clean Water Act or other applicable Federal or state regulations governing the management or discharge of wastewater;

(C) Using oil mist collectors to remove small droplets of used oil from in-plant air to make plant air suitable for continued recirculation;

(D) Draining or otherwise removing used oil from materials containing or otherwise contaminated with used oil in order to remove excessive used oil to the extent possible ~~[pursuant]~~ in accordance with ~~[to Subsection]~~R315-15-1.1(c); or

(E) Filtering, separating or otherwise reconditioning used oil before burning it in a space heater in accordance with ~~[pursuant to Section]~~R315-15-2.4.

(3) Generators who burn off-specification used oil for energy recovery, ~~[except under the on site space heater provisions of Section R315-15-2.4,]~~ shall also comply with ~~[Section]~~R315-15-6.

(4) Generators who direct shipments of off-specification used oil from their facility to a used oil burner or first certify~~[claim]~~ that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in ~~[Section]~~R315-15-1.2 shall also comply with ~~[Section]~~R315-15-7.

(5) Generators who dispose of used oil shall also comply with ~~[Section]~~R315-15-8.

2.2 HAZARDOUS WASTE MIXING

(a) Mixtures of used oil and hazardous waste shall be managed in accordance with ~~[Subsection]~~R315-15-1.1(b).

(b) The rebuttable presumption for used oil found in ~~[of Subsection]R315-15-1.1(b)(1)(ii)~~ applies to used oil managed by generators. Under this~~[the]~~ rebuttable presumption~~[for used oil of Subsection R315-15-1.1(b)(1)(ii)]~~, used oil containing greater than 1,000 ppm total halogens is presumed to be a hazardous waste and thus shall be managed as hazardous waste and not as used oil unless the presumption is rebutted. However, the rebuttable presumption does not apply to certain metalworking oil or ~~[/]~~fluids containing chlorinated paraffins, if they are processed through a tolling agreement to reclaim the metalworking oils or fluids, and certain used oils removed from refrigeration units described in R315-15-1.1(b)(1)(ii)(B).

2.3 USED OIL STORAGE

Used oil generators are subject to all applicable Spill Prevention, Control and Countermeasures, 40 CFR ~~[part]~~112, in addition to the requirements of ~~[Section]~~R315-15-2. Used oil generators are also subject to the standards and requirements of ~~[Rules]~~R311-200 through R311-209, Underground Storage Tanks, for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste~~[r]~~. In~~[in]~~ addition, used oil generators are subject to the requirements of ~~[Section]~~R315-15-2.

(a) Storage units. Used oil generators shall not store used oil in units other than tanks, containers, or units subject to regulation under ~~[Rule]~~R315-7 or R315-8.

(b) Condition of units. Containers and aboveground tanks used to store used oil at generator facilities shall be:

(1) In good condition, with no severe rusting, apparent structural defects or deterioration; and

(2) Not leaking~~[(no visible leaks)]~~.

(3) Tanks and containers for storage of used oil must be closed during storage except when adding or removing used oil.

(4) Tanks and containers storage areas shall be managed to prevent releases of used oil to the environment.

(c) Labels.

(1) Containers and aboveground tanks used to store used oil at generator facilities shall be labeled or marked clearly with the words "Used Oil".

(2) Fill pipes used to transfer used oil into underground storage tanks at generator facilities shall be labeled or marked clearly with the words "Used Oil."

(d) Response to releases. Upon detection of a release of used oil to the environment not subject to the requirements of Section R311-202-1, which incorporates by reference 40 CFR 280, Subpart F, a generator shall comply with Section R315-15-9.

2.4 ON-SITE BURNING

On-site burners shall comply with R315-15-6 and, if applicable, shall obtain an Air Quality permit.

(a) Generators may burn used oil in used oil-fired space heaters without a used oil permit provided that:

(~~a~~)1) The heater burns only used oil that the owner or operator generates;

(~~b~~)2) The heater is designed to have a maximum capacity of not more than 0.5 million Btu per hour;

(~~e~~)3) The combustion gases from the heater are vented to the outside ambient air;

(~~d~~)4) The generator has knowledge that the used oil has not been mixed with hazardous waste; and~~[If registered as a Used Oil Collection Center as authorized in Section R315-15-3, the generator may burn used oil received from household do-it-yourselfer generators or farmers described in Subsection R315-15-2.1(a)(4); and]~~

(~~e~~)5) The used oil is being legitimately burned ~~[recycled]~~to utilize its energy content.

(b) Used Oil Collection Center(UOCC). If it is registered as a Used Oil Collection Center as authorized in R315-15-3, the UOCC may burn used oil in used oil fired space heaters without a used oil permit under the provision described in R315-15-2.4(a) provided that the used oil is received from household do-it-yourselfer generators or farmers described in R315-15-2.1(a)(4) or the used oil is received from other generators and has been certified to meet the used oil fuel specifications of R315-15-1.2 by a registered used oil marketer in accordance with R315-15-7.

2.5 OFF-SITE SHIPMENTS

Except as provided in [~~paragraphs~~]R315-15-2.5(a) through (c) [~~of this section~~], a generator[~~s~~] shall ensure that its [~~their~~] used oil is transported only by a transporter[~~s~~] who has [~~ve~~] obtained a Utah used oil transporter permit and has a current used oil handler certificate issued by the Director and an EPA identification number[~~s~~].

(a) Self-transportation of small amounts to approved collection centers. A [~~G~~]generators may transport, without an EPA identification number, a used oil transporter permit, or a current used oil handler certificate, used oil that is generated at the generator's site and used oil collected from household do-it-yourselfers to a used oil collection center provided that:

(1) The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;

(2) The generator transports no more than 55 gallons of used oil at any time; and

(3) The generator transports the used oil to a used oil collection center that is registered or permitted to manage used oil.

(b) Self-transportation of small amounts to aggregation points owned by the generator. A ~~[G]generator[s]~~ may transport, without an EPA identification number, a used oil transporter permit, or used oil handler certificate, used oil that is generated at the generator's site to an aggregation point provided that:

(1) The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;

(2) The generator transports no more than 55 gallons of used oil at any time; and

(3) The generator transports the used oil to an aggregation point that is owned, operated, or both~~[and/or operated]~~ by the same generator.

(c) Tolling arrangements. Used oil generators may arrange for used oil to be transported by a transporter without an EPA identification number, a used oil transporter permit, or a current used oil handler certificate if the used oil is reclaimed under a contractual agreement under ~~[pursuant to]~~ which reclaimed oil is returned by the processor/re-refiner to the generator for use as a lubricant, cutting oil, or coolant. The contract, known as a "tolling arrangement," shall indicate:

(1) The type of used oil and the frequency of shipments;

(2) That the vehicle used to transport the used oil to the processing/re-refining facility and to deliver recycled used oil back to the generator is owned and operated by the used oil processor/re-refiner; and

(3) That reclaimed oil will be returned to the generator.

R315-15-3. Standards for Used Oil Collection Centers and Aggregation Points.

3.1 DO-IT-YOURSELFER USED OIL COLLECTION CENTERS TYPES A and B

(a) Applicability. R315-15-3.1~~[This section]~~ applies to owners or operators of ~~[all do-it-yourselfer (DIYer)]~~ Type A and B used oil collection centers~~[.]:~~

(1) Type A used oil collection center. Type A and B [A DIYer used oil collection center] is any site or facility that accepts/aggregates and stores used oil collected only from household do-it-yourselfers (DIYers) in quantities not exceeding five gallons per visit.

(2) Type B used oil collection center. Type B used oil collection center is any site or facility that accepts/aggregates

and stores used oil collected from farmers as required by R315-15-2.1(a)(4) in quantities not exceeding 55 gallons per visit from farmers and not exceeding five gallons per visit from household do-it-yourselfers.

(b) Type A or B [~~DIYer~~]used oil collection center requirements. Owners or operators of Type A or B [~~all DIYer~~]used oil collection centers shall:

(1) [~~e~~]Comply with the generator standards in [~~Section~~]R315-15-2.

(2) Be registered with the Division of Solid and Hazardous Waste to manage used oil as a used oil collection center as required by R315-15-13.1; and

(3) Keep records of used oil collected by the collection center. This does not include used oil generated on site from maintenance and servicing operations. These records shall be kept for a minimum of three years and shall contain the following information:

(i) Name and address of generator or if unavailable, a written description of how the used oil was received;

(ii) Quantity of used oil received;

(iii) Date the used oil is received; and

(iv) Volume of used oil picked up by a permitted transporter and the transporter's name and EPA identification number.

[~~and the record keeping requirements of Subsections R315-15-3.2(b)(3)(i) through (iv).~~]

(4) A Type A or B used oil collection center shall not accept used oil from generators other than those specified in R315-15-3.1(1) and (2).

(c) Reimbursements. Type A or B used oil collection centers are classified as DIYer used oil collection centers and may be reimbursed as described in R315-15-14.

3.2 [~~GENERATOR~~]USED OIL COLLECTION CENTERS - Types C and D

(a) Applicability. [~~This section~~]R315-15-3.2 applies to owners or operators of Type C and D [~~generator~~]used oil collection centers.[—]

(1) Type C [~~A generator~~]used oil collection center is any site or facility that accepts/aggregates and stores used oil collected from used oil generators regulated under [~~Section~~]R315-15-2 who bring used oil to the collection center in shipments of no more than 55 gallons under the provisions of [~~Subsection~~]R315-15-2.5(a). Type C used oil collection [~~Used generator oil collection~~]centers may also accept used oil from household do-it-yourselfers and farmers described in [~~Subsection~~]R315-15-2.1(a)(4)[~~, if registered to do so~~].

(2) A Type D used oil collection center is any site or

facility that only accepts/aggregates and stores used oil collected from used oil generators regulated under R315-15-2 who bring used oil to the collection center in shipments of no more than 55 gallons under the provisions of R315-15-2.5(a). Type D used oil collection centers do not qualify for reimbursement.

(b) ~~[Generator]~~Used oil collection center Type C and D requirements. Owners or operators of [all-generator]Types C and D used oil collection centers shall:

(1) Comply with the generator standards in ~~[Section]~~R315-15-2;

(2) Be registered with the Division of Solid and Hazardous Waste to manage used oil; and

(3) Keep records of used oil received from off-site sources and ~~[picked up/]~~transported from the collection center. This does not include used oil generated on~~[-]~~site from maintenance and servicing operations. These records shall be kept for a minimum of three years and shall contain the following information:

(i) Name and address of generator~~[+]~~ or, if unavailable, a written description of how the used oil was received;~~[-]~~

(ii) Quantity of used oil received;

(iii) Date the used oil is received; and

(iv) Volumes of used oil collected ~~[picked up-]~~by a permitted transporter and the transporter's name and federal EPA identification number.

(c) Reimbursements. Type C used oil collection centers may be reimbursed as described in R315-15-14 for household do-it-yourselfer and used oil generated by farmers as defined in R315-15-3.1. Other generator used oil does not meet the reimbursement criteria as do-it-yourselfer used oil and does not qualify for reimbursement.

3.3 USED OIL AGGREGATION POINTS OWNED BY THE GENERATOR

(a) Applicability. R315-15-3.3 ~~[This section]~~applies to owners or operators of all used oil aggregation points. A used oil aggregation point is any site or facility that accepts, aggregates, ~~[and/]~~or stores used oil collected only from other used oil generation sites owned or operated by the owner or operator of the aggregation point, from which used oil is transported to the aggregation point in shipments of~~[-no more than]~~ 55 gallons or less under the provisions of ~~[Subsection]~~R315-15-2.5(b). Used oil aggregation points may also accept used oil from household do-it-yourselfers as long as they register as do-it-yourselfer collection centers, as described in ~~[Section]~~R315-15-13.1, and comply with do-it-yourselfer collection center standards in ~~[Section]~~R315-15-3.1. Used oil aggregation points that accept used oil from other generators ~~[must-]~~shall register as collection

centers, as described in ~~[Section]~~R315-15-13.2, and comply with collection center standards in ~~[Section]~~R315-15-3.2.

(b) Used oil aggregation point requirements. Owners or operators of all used oil aggregation points shall comply with the generator standards in ~~[Section]~~R315-15-2.

R315-15-4. Standards for Used Oil Transporter and Transfer Facilities.

4.1 APPLICABILITY

(a) General. R315-15-4 applies to all used oil transporters, ~~[E]~~except as provided in ~~[paragraphs]~~R315-15-4.1(a)(1) through ~~[(a)]~~(4)~~[of this section]~~, ~~[Section]~~R315-15-4 applies to all used oil transporters. ~~[Used oil transporters are]~~~~[p]~~Persons who transport used oil, persons who collect used oil from more than one generator and transport the collected used oil, and owners and operators of used oil transfer facilities are used oil transporters. Except as provided by ~~[Subsection]~~R315-15-13.4(f), used oil transporters or operators of used oil transfer facilities shall obtain a permit from the ~~[Executive Secretary]~~Director prior to accepting any used oil for transportation or transfer. The application for a permit shall include the information required by ~~[Section]~~R315-15-13.4. Used oil transporters and operators of used oil transfer facilities shall obtain and maintain a used oil handler certificate in accordance with R315-15-13.8.

(1) ~~[Section]~~R315-15-4 does not apply to on-site transportation.

(2) ~~[Section]~~R315-15-4 does not apply to generators who transport shipments of used oil totaling 55 gallons or less from the generator to a used oil collection center as specified in Subsection R315-15-2.5(a).

(3) ~~[Section]~~R315-15-4 does not apply to generators who transport shipments of used oil totaling 55 gallons or less from the generator to a used oil aggregation point owned or operated by the same generator as specified in ~~[Subsection]~~R315-15-2.5(b).

(4) ~~[Section]~~R315-15-4 does not apply to transportation of used oil from household do-it-yourselfers to a regulated used oil generator, collection center, aggregation point, processor/refiner, or burner subject to the requirements of ~~[Rule]~~R315-15. Except as provided in ~~[paragraphs]~~R315-15-4.1(a)(1) through (a)(3)~~[of this section]~~, ~~[Section]~~R315-15-4 does, ~~[however,]~~ apply to transportation of collected household do-it-yourselfer used oil from regulated used oil generators, collection centers, aggregation points, or other facilities where household do-it-yourselfer used oil is collected.

(b) Imports and exports. Transporters ~~[who import used oil from abroad or export used oil outside of the United States]~~ are subject to the requirements of ~~[Section—]R315-15-4~~ from the time the used oil enters and until the time it exits Utah.

(c) ~~[Trucks]~~Vehicles used to transport hazardous waste. Unless ~~[trucks]~~vehicles previously used to transport hazardous waste are emptied as described in ~~[Section—]R315-2-7~~ prior to transporting used oil, the used oil is considered to have been mixed with the hazardous waste and shall be managed as hazardous waste unless, under the provisions of ~~[Subsection—]R315-15-1.1(b)~~, the hazardous waste/used oil mixture is determined not to be hazardous waste.

(d) Vehicles used to transport PCB-contaminated material. Unless vehicles previously used to transport PCB-contaminated material are decontaminated as described in 40 CFR 761 Subpart S, incorporated by reference, prior to transporting used oil, the used oil is considered to have been mixed with PCB-contaminated material and shall be managed as PCB-contaminated material in accordance with R315-15-18 and 40 CFR 761.

(e) Tanks, containers, and piping that contained PCB-contaminated material. Unless tanks, containers, and piping that previously contained PCB-contaminated material are decontaminated as described in 40 CFR 761 Subpart S prior to transferring used oil, the used oil is considered to have been mixed with PCB-contaminated material in accordance with R315-15-18 and 40 CFR 761 Subpart S.

~~([d]f)~~ Other applicable provisions. Used oil transporters who conduct the following activities are also subject to other applicable provisions of ~~[Rule—]R315-15~~ as indicated in ~~[paragraphs]R315-15-4.1 ([d]f)(1) through (5)[—of this section]:~~

(1) Transporters who generate used oil shall also comply with ~~[Section—]R315-15-2;~~

(2) Transporters who process or re-refine used oil, except as provided in ~~[Section—]R315-15-4.2~~, shall also comply with ~~[Section—]R315-15-5;~~

(3) Transporters who burn off-specification used oil for energy recovery shall also comply with ~~[Section—]R315-15-6;~~

(4) Transporters who direct shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in ~~[Section—]R315-15-1.2~~ shall also comply with ~~[Section—]R315-15-7;~~ and

(5) Transporters who dispose of used oil shall also comply with ~~[Section—]R315-15-8.~~

4.2 RESTRICTIONS ON TRANSPORTERS WHO ARE NOT ALSO PROCESSORS

OR RE-REFINERS

(a) Used oil transporters may consolidate or aggregate loads of used oil for purposes of transportation. However, except as provided in [~~paragraph~~]R315-15-4.2(b)[~~of this section~~], used oil transporters may not process used oil unless they also comply with the requirements for processors/re-refiners in [~~Section~~]R315-15-5.

(b) Transporters may conduct incidental processing operations that occur in the normal course of used oil transportation, e.g., settling and water separation, but that are not designed to produce, or make more amenable for production of, used oil derived products unless they also comply with the processor/re-refiner requirements in [~~Section~~]R315-15-5.

(c) Transporters of used oil that is removed from oil-bearing electrical transformers and turbines and filtered by the transporter or at a transfer facility prior to being returned to its original use are not subject to the processor/re-refiner requirements in [~~Section~~]R315-15-5.

4.3 NOTIFICATION

(a) Identification numbers. Used oil transporters who have not previously complied with the notification requirements of RCRA section 3010 shall comply with these requirements and obtain an EPA identification number.

(b) Mechanics of notification. A used oil transporter who has not received an EPA identification number may obtain one by notifying the [~~Executive Secretary~~]Director of his used oil activity by submitting either:

(1) A completed EPA Form 8700-12[~~. To obtain EPA Form 8700-12 call Utah Division of Solid and Hazardous Waste at 801 538-6170~~] or

(2) A letter to the Division requesting an EPA identification number. The letter shall include the following information:

- (i) Transporter company name;
- (ii) Owner of the transporter company;
- (iii) Mailing address for the transporter;
- (iv) Name and telephone number for the transporter point of contact;
- (v) Type of transport activity, i.e., transport only, transport and transfer facility, transfer facility only;
- (vi) Location of all transfer facilities at which used oil is stored; and
- (vii) Name and telephone number for a contact at each transfer facility.

4.4 USED OIL TRANSPORTATION

(a) Deliveries. A used oil transporter shall deliver all used oil received to:

(1) Another used oil transporter, provided that the transporter has obtained an EPA identification number~~[+]~~ transporter, permit number, and current used oil handler certificate issued by the Director;

(2) A used oil processing/re-refining facility ~~[which]~~that has obtained an EPA identification number~~[+]~~, processing/refining permit, and current used oil handler certificate issued by the Director;

(3) An off-specification used oil burner facility ~~[which]~~that has obtained an EPA identification number~~[+]~~, off-specification used oil burner permit, and current used oil handler certificate issued by the Director;~~[-or]~~

(4) A used oil transfer facility that has obtained an EPA identification number, transfer facility permit, and current used oil handler certificate issued by the Director; or

~~[(4)]~~5) An on-specification used oil burner facility.

(b) DOT Requirements. Used oil transporters shall comply with all applicable requirements under the U.S. Department of Transportation regulations in 49 CFR 171 through 180. Persons transporting used oil that meets the definition of a hazardous material in 49 CFR 171.8 shall comply with all applicable regulations in 49 CFR 171 through 180.

(c) Used oil discharges. In the event of a used oil discharge, a transporter shall comply with ~~[Section]~~R315-15-9.

(d) The words "Used Oil" shall be clearly visible, in letters at least two inches high, on all vehicles transporting bulk used oil.

4.5 REBUTTABLE PRESUMPTION FOR USED OIL

(a) To ensure that used oil is not a hazardous waste under the rebuttable presumption of ~~[Subsection]~~R315-15-1.1(b)(1)(ii), the used oil transporter shall determine whether the total halogen content of used oil being transported or stored at a transfer facility is ~~[above or]~~below 1,000 ppm.

(b) The transporter shall make this determination by:

(1) Testing the used oil; or

(2) Applying and documenting generator knowledge of the halogen content of the used oil in light of the materials or processes used.

(c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in ~~[Section]~~R315-2-10. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain

hazardous waste, for example, by using an analytical method from SW-846, Edition III, update IV to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in R315-50-10[, ~~which incorporates by reference 40 CFR 261 Appendix VIII.~~ SW-846, Edition III, is available for review during normal business hours at the Utah Division of Solid and Hazardous Waste office, located at 288 North 1460 West, Salt Lake City, Utah. To schedule an appointment, call 801-538-6170].

(1) The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling arrangement as described in [~~Subsection~~]R315-15-2.5(c), to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner, or disposed.

(2) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units if the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

(d) Record retention. Records of analyses conducted or information used to comply with [~~paragraphs~~]R315-15-4.5(a), (b), and (c) [~~of this section~~] shall be maintained by the transporter for at least three years.

4.6 USED OIL STORAGE AT TRANSFER FACILITIES

Used oil transporters are subject to all applicable Spill Prevention, Control and Countermeasures, in accordance with 40 CFR 112, in addition to the requirements of [~~Section~~]R315-15-4. Used oil transporters are also subject to the standards of [~~Title~~]R311, which incorporates by reference 40 CFR 280, for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of [~~Section~~]R315-15-4.

(a) Applicability. [~~This section~~]R315-15-4 applies to used oil transfer facilities. Used oil transfer facilities are transportation-related facilities including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours during the normal course of transportation and not longer than 35 days. Transfer facilities that store used oil for more than 35 days are subject to the processor/re-refiner requirements [~~as~~] found in [~~Section~~]R315-15-5.

(b) Storage units. Owners or operators of used oil transfer facilities may not store used oil in units other than tanks,

containers, or units subject to regulation under ~~[Rule]~~R315-7 or R315-8.

(c) Condition of units. Containers and aboveground tanks and tank systems, including their associated pipes and valves, used to store used oil at transfer facilities shall be:

(1) In good condition, with no severe rusting, apparent structural defects, or deterioration; and

(2) Not leaking~~[(no visible leaks)]~~.

(3) Tanks and containers for storage of used oil must be closed during storage except when adding or removing used oil.

(4) Tanks and container storage areas shall have a containment system that is designed and operated in accordance with R315-8-9.

(d) Secondary containment. Containers and ~~[existing]~~ aboveground tanks~~[, and new aboveground tanks]~~ used to store used oil at transfer facilities, including their pipe connections and valves, shall be equipped with a secondary containment system.

(1) The secondary containment system shall consist of~~[, at a minimum]~~:

(i) Dikes, berms, or retaining walls; and

(ii) A floor. The floor shall cover the entire area within the dikes, berms, or retaining walls except areas where existing portions of existing aboveground tanks meet the ground.

(iii) An equivalent secondary containment system approved by the Director.

(2) The entire containment system, including walls and floors, shall be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

(3) The secondary system shall be of sufficient extent to prevent any used oil releases from tanks and containers in R315-15-4.6(b), from migrating out of the system to the soil, groundwater, or surface water.

(4) Water, used oil, or other liquids shall be removed from secondary containment, including sumps, within 24 hours of discovery.

(5) Used oil shall not be stored or allowed to accumulate in sumps and similar water containment structures at the facility. Any used oil in such sumps beyond a surface sheen shall be removed within 24 hours of discovery.

(6) Transporters loading to or from rail tanker cars shall also comply with secondary containment requirements of R315-15-4.10.

(e) Labels.

(1) Containers and aboveground tanks used to store used oil

at transfer facilities shall be labeled or marked clearly with the words "Used Oil."

(2) Fill pipes used to transfer used oil into underground storage tanks at transfer facilities shall be labeled or marked clearly with the words "Used Oil."

(f) Response to releases. Upon detection of a release of used oil to the environment not subject to the requirements of ~~[Section]~~R311-202-1, which incorporates by reference 40 CFR 280, Subpart F, the owner/operator of a transfer facility shall comply with ~~[Section]~~R315-15-9.

4.7 TRACKING

(a) Acceptance. Used oil transporters and transfer facilities shall keep a written record of each used oil shipment accepted for transport. These records shall take the form of a log, invoice, manifest, bill of lading, or other shipping documents. Written records for each shipment shall include:

(1) The name and address of the generator, transporter, transfer facility, burner, or processor/re-refiner who provided the used oil for transport;

(2) The EPA identification number, if applicable, of the generator, transporter, or processor/re-refiner who provided the used oil for transport;

(3) Documentation demonstrating the transporter has met the halogen determination requirements of R315-15-4.5 and, where applicable, the PCB testing requirements of R315-15-18;

~~(3)4~~ The quantity of used oil accepted;

~~(4)5~~ The date of acceptance; and

~~(5)6~~(i) Except as provided in ~~[paragraph]~~R315-15-4.7(a)(~~5~~6)(ii)~~[of this section]~~, the signature, dated upon receipt of the used oil, of a representative of the generator, transporter, transfer facility, burner, or processor/re-refiner who provided the used oil for transport.

(ii) Intermediate rail transporters are not required to sign the record of acceptance.

(b) Deliveries. Used oil transporters and transfer facilities shall keep a written record of each shipment of used oil that is delivered to another used oil transporter, a transfer facility, ~~[or to a used oil]~~ burner, processor/re-refiner, or disposal facility. Records of each delivery shall include:

(1) The name and address of the receiving facility or transporter;

(2) The EPA identification number of the receiving facility or transporter;

(3) The quantity of used oil delivered;

(4) The date of delivery; and

(5)(i) Except as provided in [~~paragraph~~]R315-15-4.7(a)(~~5~~6)(ii)[~~of this section~~], the signature, dated upon receipt of the used oil, of a representative of the receiving facility or transporter.

(ii) Intermediate rail transporters are not required to sign the record of delivery.

(c) Exports of used oil. Used oil transporters shall maintain the records described in [~~paragraphs~~]R315-15-4.7(b)(1) through (b)(4) [~~of this section~~]for each shipment of used oil exported [~~to any~~]outside of Utah[~~foreign country~~].

(d) Record retention. The records described in [~~paragraphs~~]R315-15-4.7(a), (b), and (c) [~~of this section~~]shall be maintained for at least three years at a specified facility approved by the Director.

(e) Reporting. [~~A~~u]Used oil transporter[~~]~~ and transfer facilit[~~y~~]ies shall report annually by March 1 to the [~~Executive Secretary~~]Director[~~by March 1 of each year~~]. The report shall be consistent with the requirements of [~~Subsection~~]R315-15-13.4(d).

4.8 MANAGEMENT OF RESIDUES

Transporters who generate residues from the storage or transport of used oil shall manage the residues as specified in [~~Subsection~~]R315-15-1.1(e).

4.9 ACCEPTANCE OF OFF-SITE USED OIL

Used oil transporters and transfer facilities accepting used oil from off-site shall ensure that the transporters delivering the used oil have obtained a current used oil transporter permit and an EPA identification number.

4.10 TRANSFER OF USED OIL TO OR FROM RAIL CARS

(a) Spill prevention. Facilities or transporters loading or unloading used oil from rail cars shall:

(1) Use spill pans beneath rail cars being loaded or unloaded with used oil. These spill pans shall be placed inside and outside of the track below the rail car loading port in such a way as to capture releases that might occur during the loading and unloading operations;

(2) Securely park used oil transportation trucks on a loading pad during the loading and unloading of used oil between those trucks and the rail tanker car. The loading pad shall be constructed of asphalt or concrete, or an equivalent system approved by the Director, and shall be sloped or bermed in such a way as to contain used oil spills;

(3) Be loaded and unloaded through a valve or port located on top of the rail car unless otherwise approved by the Director; and

(4) Transporter personnel shall actively monitor the

transfer during the entire loading and unloading process.

(b) Storage at rail loading and unloading facilities. If, during the normal course of transportation, used oil remains at the loading and unloading facility for more than 24 hours but less than 35 days, the facility is subject to regulation as a used oil transfer facility as defined in R315-15-4.6 and is required to apply for a permit as a used oil transfer facility as defined in R315-15-13.4. A transfer facility that stores used oil for more than 35 days is subject to the processor/re-refiner requirements as defined in R315-15-5.

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

5.1 APPLICABILITY

(a) The requirements of ~~[Section]~~R315-15-5 apply to owners and operators of facilities that process used oil. Processing means chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used oil-derived products. Processing includes: blending used oil with virgin petroleum products, blending used oils to meet the fuel specification, filtration, simple distillation, chemical or physical separation and re-refining. The requirements of ~~[Section]~~R315-15-5 do not apply to:

(1) Transporters that conduct incidental processing operations that occur during the normal course of transportation as provided in ~~[Section]~~R315-15-4.2; or

(2) Burners that conduct incidental processing operations that occur during the normal course of used oil management prior to burning as provided in ~~[Subsection]~~R315-15-6.2(b).

(b) Other applicable provisions. Used oil processors/re-refiners who conduct the following activities are also subject to the requirements of other applicable provisions of ~~[Rule]~~R315-15 as indicated in ~~[paragraphs]~~R315-15-5.1(b)(1) through (b)([5]7)[of this section].

(1) Processors/re-refiners who generate used oil shall also comply with ~~[Section]~~R315-15-2.

(2) Processors/re-refiners who transport used oil shall also comply with ~~[Section]~~R315-15-4.

(3) ~~[Except as provided in paragraphs (b)(3)(i) and (b)(3)(ii) of this section, processors/re-refiners who burn off-specification used oil for energy recovery shall also comply with Section R315-15-6.]~~Processor/re-refiners who burn[ing] off-specification used oil for energy recovery shall also comply with R315-15-6 except where[under the following conditions are not subject to Section R315-15-6]:

(i) The used oil is only burned in an on-site space heater that meets the requirements of ~~[Section]~~R315-15-2.4; or

(ii) The used oil is only burned for purposes of processing used oil, which is considered burning incidentally to used oil processing.

(4) Processors/re-refiners who direct shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in ~~[Section]~~ R315-15-1.2 shall also comply with ~~[Section]~~R315-15-7.

(5) Processors/re-refiners who dispose of used oil shall also comply with ~~[Section]~~R315-15-8.

(6) Tanks, containers, and piping that contained hazardous waste. Unless tanks, containers, and piping that previously contained hazardous waste are emptied as described in R315-2-7 prior to storing or transferring used oil, the used oil is considered to have been mixed with the hazardous waste and shall be managed as hazardous waste unless, under the provisions of R315-15-1.1(b), the hazardous waste and used oil mixture is determined not to be hazardous waste.

(7) Tanks, containers, and piping that previously contained PCB-contaminated material. Unless tanks, containers, and piping that previously contained PCB-contaminated material are decontaminated as described in 40 CFR 761 Subpart S prior to storing or transferring of used oil, the used oil is considered to have been mixed with the PCB-contaminated material and shall be managed in accordance with R315-15-18 and 40 CFR 761 Subpart S, as applicable.

(c) Processors/re-refiners shall obtain a permit from the ~~[Executive Secretary]~~Director prior to processing or re-refining used oil. An application for a permit shall contain the information required by ~~[Section]~~R315-15-13.5.

5.2 NOTIFICATION

(a) Identification numbers. Used oil processors/re-refiners who have not previously complied with the notification requirements of RCRA section 3010 shall comply with these requirements and obtain an EPA identification number.

(b) Mechanics of notification. A used oil processor or re-refiner who has not received an EPA identification number may obtain one by notifying the ~~[Executive Secretary]~~Director of their used oil activity by submitting either:

(1) A completed EPA Form 8700-12~~[-. To obtain EPA Form 8700-12 call Utah Division of Solid and Hazardous Waste at 801-538-6170];~~ or

(2) A letter to the Division requesting an EPA

identification number. The letter shall include the following information:

- (i) Processor or re-refiner company name;
- (ii) Owner of the processor or re-refiner company;
- (iii) Mailing address for the processor or re-refiner;
- (iv) Name and telephone number for the processor or re-refiner point of contact;
- (v) Type of used oil activity, i.e., process only, process and re-refine;
- (vi) Location of the processor or re-refiner facility.

5.3 GENERAL FACILITY STANDARDS

(a) Preparedness and prevention. Owners and operators of used oil processor/re-refiner facilities shall comply with the following requirements:

(1) Maintenance and operation of facility. Facilities shall be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of used oil to air, soil, ~~or~~ surface water, or groundwater that [which could threaten human health or the environment.

(2) Required equipment. ~~[Unless none of the hazards posed by used oil handled at the facility could require a particular kind of equipment specified in paragraphs (a)(2)(i) through (iv) of this section,~~ [a]All facilities shall be equipped with the following:

(i) An internal communications or alarm system capable of providing immediate emergency instruction, voice ~~or~~ and signal, to facility personnel;

(ii) 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;

(iii) Portable fire extinguishers, fire control equipment, including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals, spill control equipment, and decontamination equipment; and

(iv) Water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems.

(3) Testing and maintenance of equipment. All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, shall be tested and maintained as necessary to assure its proper operation in time of emergency. Records of such testing and maintenance shall be kept for three years.

(4) Access to communications or alarm system.

(i) Whenever used oil is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation shall have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required in [~~paragraph~~]R315-15-5.3(a)(2)[~~of this section~~].

(ii) If there is ever just one employee on the premises while the facility is operating, the employee shall have immediate access to a device, such as a telephone, immediately available at the scene of operation, or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required in [~~paragraph~~]R315-15-5.3(a)(2)[~~of this section~~].

(5) Required aisle space. The owner or operator shall maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

(6) Arrangements with local authorities.

(i) The owner or operator shall attempt to make the following arrangements, as appropriate for the type of used oil handled at the facility and the potential need for the services of these organizations:

(A) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of used oil handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes;

(B) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;

(C) Agreements with State emergency response teams, emergency response contractors, and equipment suppliers; and

(D) Arrangements to familiarize local hospitals with the properties of used oil handled at the facility and the types of injuries or illnesses [~~which~~] that could result from fires, explosions, or releases at the facility.

(ii) Where State or local authorities decline to enter into such arrangements, the owner or operator shall document the refusal in the facility's operating record.

(b) Contingency plan and emergency procedures. Owners and operators of used oil processor[s] and re-refiner[s] facilities

shall comply with the following requirements:

(1) Purpose and implementation of contingency plan.

(i) Each owner or operator shall have a contingency plan for the facility. The contingency plan shall be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, groundwater, or surface water.

(ii) The provisions of the plan shall be carried out immediately whenever there is a fire, explosion, or release of used oil [~~which~~]that could threaten human health or the environment.

(2) Content of contingency plan.

(i) The contingency plan shall describe the actions facility personnel shall take to comply with [~~paragraphs~~]R315-15-5.3(b)(1) and (6) [~~of this section~~]in response to fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, groundwater, or surface water at the facility.

(ii) If the owner or operator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with 40 CFR 112 or some other emergency or contingency plan, the owner or operator need only amend that plan to incorporate used oil management provisions necessary to comply with the requirements of R315-15.

(iii) The plan shall describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and State and local emergency response teams to coordinate emergency services, [~~pursuant to paragraph~~]in accordance with R315-15-5.3(a)(6)[~~of this section~~].

(iv) The plan shall list names, addresses, and phone numbers, [~~office and home,~~]of all persons qualified to act as 24-hour emergency coordinator. This list shall be kept up to date. Where more than one person is listed, one shall be named as primary emergency coordinator and others shall be listed in the order in which they will assume responsibility as alternates. See also [~~paragraph~~]R315-15-5.3(b)(5)[~~of this section~~].

(v) The plan shall include a list of all emergency equipment at the facility, such as fire extinguishing systems, spill control equipment, communications and alarm systems, internal and external, and decontamination equipment, where this equipment is required. This list shall be kept up to date. In addition, the plan shall include the location and a physical description of each item on the list, and a brief outline of its capabilities.

(vi) The plan shall include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan shall describe 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 used oil or fires.

(3) Copies of contingency plan. A copy of the contingency plan and all revisions to the plan shall be:

(i) Maintained at the facility; and

(ii) Submitted to all local police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services.

(4) Amendment of contingency plan. The contingency plan shall be reviewed, and immediately amended, if necessary, whenever:

(i) Applicable regulations are revised;

(ii) The plan fails in an emergency;

(iii) The facility changes its design, construction, operation, maintenance, or other circumstances in a way that materially increases the potential for fires, explosions, or releases of used oil, or changes the response necessary in an emergency;

(iv) The list of emergency coordinators changes; or

(v) The list of emergency equipment changes.

(5) Emergency coordinator. At all times, there shall be at least one employee either on the facility premises or on call, i.e., 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 aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristic of used oil handled, the location of all records within the facility, and facility layout. In addition, this person shall have the authority to commit the resources needed to carry out the contingency plan.

(6) Emergency procedures.

(i) Whenever there is an imminent or actual emergency situation, the emergency coordinator, or the designee when the emergency coordinator is on call, shall immediately:

(A) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

(B) Notify appropriate State or local agencies with designated response roles if their help is needed.

(ii) Whenever 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. [He—]The emergency coordinator may do this by observation or review of facility records of manifests and, if necessary, by

chemical analysis.

(iii) Concurrently, the emergency coordinator shall assess possible hazards to human health ~~[or]~~ and to the environment that may result from the release, fire, or explosion. This assessment shall consider both direct and indirect effects of the release, fire, or explosion, 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.

(iv) 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 coordinator shall report the~~[his]~~ findings as follows:

(A) If the emergency coordinator ~~[his]~~ assessment indicates ~~[d]~~ that evacuation of local areas may be advisable, he shall immediately notify appropriate local authorities. ~~[He-t]~~ The coordinator shall be available to help appropriate officials decide whether local areas should be evacuated; and

(B) ~~[He]~~ The emergency coordinator shall implement the actions as required in Section R315-15-9.

(v) During an emergency, the emergency coordinator shall take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other used oil or hazardous waste at the facility. These measures shall include, where applicable, stopping processes and operation, collecting and containing released used oil, and removing or isolating containers.

(vi) If the facility stops operation in response to a fire, explosion, or release, the emergency coordinator shall monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

(vii) Immediately after an emergency, the emergency coordinator shall provide for recycling, storing, or disposing of recovered used oil, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.

(viii) The emergency coordinator shall ensure that, in the affected area(s) of the facility:

(A) No waste or used oil that may be incompatible with the released material is recycled, treated, stored, or disposed of until cleanup procedures are completed; and

(B) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

(C) The owner or operator shall notify the ~~[Executive~~

~~Secretary~~ Director, and appropriate local authorities that the facility is in compliance with ~~[paragraphs—]~~ R315-15-5.3(b)(6)(viii)(A) and (B) ~~[of this section—]~~ before operations are resumed in the affected area(s) of the facility.

(ix) The owner or operator shall note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, ~~[he]~~ the owner or operator shall submit a written report on the incident to the ~~[Executive Secretary]~~ Director. The report shall include:

(A) Name, address, and telephone number of the owner or operator;

(B) Name, address, and telephone number of the facility;

(C) Date, time, and type of incident, e.g., fire, explosion;

(D) Name and quantity of material(s) involved;

(E) The extent of injuries, if any;

(F) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and

(G) Estimated quantity and disposition of recovered material that resulted from the incident.

5.4 REBUTTABLE PRESUMPTION FOR USED OIL

(a) To ensure that used oil managed at a processing/re-refining facility is not hazardous waste under the rebuttable presumption of ~~[Subsection—]~~ R315-15-1.1(b)(1)(ii), the owner or operator of a used oil processing/re-refining facility shall determine whether the total halogen content of used oil managed at the facility is above or below 1,000 ppm.

(b) The owner or operator shall make this determination by:

(1) Testing the used oil; or

(2) Applying and documenting generator knowledge of the halogen content of the used oil in light of the materials or processes used.

(c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in ~~[Section—]~~ R315-2-10. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste, for example, by using an analytical method from EPA SW-846, Edition III, Update IV to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in ~~[Section—]~~ R315-50-10 ~~[, which incorporates by reference 40 CFR 261 Appendix VIII. EPA SW 846, Edition III, is available for review during normal business hours at the Utah Division of Solid and Hazardous Waste office, located at 288 North 1460 West, Salt Lake City, Utah. To schedule an appointment, call~~

801-538-6170].

(1) The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed, through a tolling agreement, to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner, or disposed.

(2) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

5.5 USED OIL MANAGEMENT

Used oil processor/re-refiners are subject to all applicable Spill Prevention, Control and Countermeasures, found in 40 CFR 112, in addition to the requirements of [~~Section~~]R315-15-5. Used oil processors/re-refiners are also subject to the standards and requirements found in [~~of Rules~~]R311-200 through R311-209, Underground Storage Tanks, for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of [~~Section~~]R315-15-5.

(a) Management units. Used oil processors/re-refiners may not store used oil in units other than tanks, containers, or units subject to regulation under [~~Rule~~]R315-7 or R315-8.

(b) Condition of units. Containers and aboveground tanks including their associated pipes and valves used to store or process used oil at processing and re-refining facilities shall be:

(1) In good condition, with no severe rusting, apparent structural defects, or deterioration; [~~and~~]

(2) Not leaking [~~(no visible leaks)~~]; and

(3) Closed during storage except when used oil is being added or removed.

(c) Secondary containment. Containers [~~, existing aboveground tanks,~~] and [~~new~~]aboveground tanks used to store or process used oil at processing and re-refining facilities including their pipe connections and valves shall be equipped with a secondary containment system.

(1) The secondary containment system shall consist of [~~, at a minimum~~]:

(i) Dikes, berms, or retaining walls; and

(ii) A floor. The floor shall cover the entire area within the dike, berm, or retaining wall, except areas where existing

portions of [~~existing~~]aboveground tanks meet the ground; or[~~7~~]

(iii) An equivalent secondary containment system approved by the Director.

(2) The entire containment system, including walls and floors, shall be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

(3) The secondary containment system shall be of sufficient size and volume to prevent any used oil released from tanks and containers described in R315-15-5.5(a), from migrating out of the system to the soil, groundwater, or surface water.

(4) Water, used oil, or other liquids shall be removed from secondary containment within 24 hours of their discovery.

(5) Used oil shall not be stored or allowed to accumulate in sumps and similar water-containment structures at the facility. Any used oil in such sumps shall be removed within 24 hours of its discovery.

(d) Labels.

(1) Containers and aboveground tanks used to store or process used oil at processing and re-refining facilities shall be labeled or marked clearly with the words "Used Oil."

(2) Fill pipes used to transfer used oil into underground storage tanks at processing and re-refining facilities shall be labeled or marked clearly with the words "Used Oil."

(e) Response to releases. Upon detection of a release of used oil to the environment not subject to the requirements of [~~Section~~]R311-202-1, which incorporates by reference 40 CFR 280, Subpart F, an owner/operator shall comply with [~~Section~~]R315-15-9.

(f) Closure.

(1) Aboveground tanks. Owners and operators who store or process used oil in aboveground tanks shall comply with the following requirements:

(i) At closure of a tank system, the owner or operator shall remove or decontaminate used oil residues in tanks, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste under this chapter. Nonhazardous solid waste[~~7~~] must be managed in accordance with [~~Section~~]R315-301-4.

(ii) If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in [~~paragraph~~]R315-15-5.5(f)(1)(i)[~~of this section~~], then the owner or operator shall close the tank system and perform post-closure care in accordance with the closure and post-closure

care requirements that apply to hazardous waste landfills, ~~[Section]~~R315-7-21.4.

(2) Containers. Owners and operators who store used oil in containers shall comply with the following requirements:

(i) At closure, containers holding used oils or residues of used oil shall be removed from the site;

(ii) The owner or operator shall remove or decontaminate used oil residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste under ~~[Rule]~~R315-2.

5.6 ANALYSIS PLAN

Owners or operators of used oil processing/~~and~~re-refining facilities shall develop and follow a written used oil analysis plan describing the procedures that will be used to comply with the analysis requirements of ~~[Section]~~R315-15-5.4, R315-15-18, and, if applicable, the marketer requirements in ~~[Section]~~R315-15-7.3. The owner or operator shall keep the plan at the facility.

(a) Rebuttable presumption for used oil in ~~[Section]~~R315-15-5.4. ~~[At a minimum, t]~~The plan shall specify the following:

(1) Whether sample analyses ~~[or]~~documented generator knowledge of the halogen content of the used oil, or both, will be used to make this determination.

(2) If sample analyses are used to make this determination, the plan shall specify:

(i) The sampling method used to obtain representative samples to be analyzed. A representative sample may be obtained using either:

(A) One of the sampling methods in ~~[Section]~~R315-50-6~~[-, which incorporates by reference 40 CFR 261, Appendix I]; or~~

(B) A method shown to be equivalent under ~~[Section]~~R315-2-15;

(ii) The frequency of sampling to be performed, and whether the analysis will be performed on~~[-]site or off[-]site; and~~

(iii) The methods used to analyze used oil for the parameters specified in ~~[Section]~~R315-15-5.4; and

(3) The type of information that will be used to determine the halogen content of the used oil.

(b) On-specification used oil fuel in ~~[Section]~~R315-15-7.3. At a minimum, the plan shall specify the following if ~~[Section]~~R315-15-7.3 is applicable:

(1) Whether sample analyses or other information will be used to make this determination;

(2) If sample analyses are used to make this determination:

(i) The sampling method used to obtain representative samples to be analyzed. A representative sample may be obtained using either:

(A) One of the sampling methods in [~~Section~~]R315-50-6, which incorporates by reference 40 CFR 261, Appendix I; or

(B) A method shown to be equivalent under [~~Section~~]R315-2-15;

(ii) Whether used oil will be sampled and analyzed prior to or after any processing/re-refining;

(iii) The frequency of sampling to be performed, and whether the analysis will be performed on-site or off-site; and

(iv) The methods used to analyze used oil for the parameters specified in [~~Section~~]R315-15-7.3.

(3) The type of information that will be used to make the on-specification used oil fuel determination.

5.7 TRACKING

(a) Acceptance. Used oil processors/re-refiners shall keep a written record of each used oil shipment accepted for processing/re-refining. These records [~~may~~]shall take the form of a log, invoice, manifest, bill of lading, or other shipping documents. Records for each shipment shall include the following information:

(1) The name and address of the transporter who delivered the used oil to the processor/re-refiner;

(2) The name and address of the generator or processor/re-refiner from whom the used oil was sent for processing/re-refining;

(3) The EPA identification number of the transporter who delivered the used oil to the processor/re-refiner;

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

(5) The quantity of used oil accepted; [~~and~~]

(6) The date of acceptance; and

(7) Written documentation that the processor/re-refiner has met the rebuttable presumption requirements of R315-15-5.4 and the PCB testing requirements of R315-15-18.

(b) Delivery. Used oil processor/re-refiners shall keep a written record of each shipment of used oil that is shipped to a used oil burner, processor/re-refiner, or disposal facility. These records may take the form of a log, invoice, manifest, bill of lading, or other shipping documents. Records for each shipment shall include the following information:

(1) The name and address of the transporter who delivers the used oil to the burner, processor/re-refiner, or disposal

facility;

(2) The name and address of the burner, processor/re-refiner, or disposal facility [~~which~~]that will receive the used oil;

(3) The EPA identification number of the transporter who delivers the used oil to the burner, processor/re-refiner, or disposal facility;

(4) The EPA identification number of the burner, processor/re-refiner, or disposal facility [~~which~~]that will receive the used oil;

(5) The quantity of used oil shipped; and

(6) The date of shipment.

(c) Record retention. The records described in paragraphs (a) and (b) of this section shall be maintained for at least three years at the permitted facility or other location approved by the Director.

5.8 OPERATING RECORD AND REPORTING

(a) Operating record.

(1) The owner or operator of the processor/re-refiner facility shall keep a written operating record at the facility.

(2) The following information shall be recorded, as it becomes available, and maintained in the operating record until closure of the facility:

(i) Records and results of used oil analyses performed as described in the analysis plan required under R315-15-5.6;

(ii) Summary reports and details of all incidents that require implementation of the contingency plan as specified in [~~Subsection~~]R315-15-5.3(b); and

(iii) Records detailing the mass balance of wastewater entering and leaving the facility. This includes wastewater discharge records. This does not include water used in non-contact cooling processes.

(b) Reporting. A used oil processor/re-refiner shall report annually March 1 to the [~~Executive Secretary~~]Director [~~by March 1 of each year~~]. The report shall be consistent with the requirements of [~~Subsection~~]R315-15-13.5(d).

5.9 OFF-SITE SHIPMENTS OF USED OIL

Used oil processors/re-refiners who initiate shipments of used oil off[-]site shall ship the used oil using a used oil transporter who has obtained an EPA identification number, a permit, and current used oil handler certificate issued by the Director.

5.10 ACCEPTANCE OF OFF-SITE USED OIL

Processors accepting used oil from off site shall ensure that transporters delivering used oil to their facility have obtained a

current used oil transporter permit and an EPA identification number.

5.1[0]1 MANAGEMENT OF RESIDUES

Owners and operators who generate residues from the storage, processing, or re-refining of used oil shall manage the residues as specified in [~~Subsection~~]R315-15-1.1(e).

R315-15-6. Standards for Used Oil Burners Who Burn Used Oil for Energy Recovery.

6.1 APPLICABILITY

(a) General. A used oil burner is a person who burns used oil for energy recovery. An on-specification used oil burner is a person who only burns used oil that meets the specifications of R315-15-1.2. Used oil that has not been determined to be on-specification used oil by a Utah-registered marketer shall be managed as off-specification used oil except as described R315-15-2.4.~~[The requirements of Section R315 15 6 apply to used oil burners except as specified in paragraphs (a)(1) through (a)(3) of this section.]~~ An off-specification used oil burner is a person who burns [~~facility where~~]used oil not meeting the specifications found [~~requirements~~]in [~~Section~~]R315-15-1.2 [~~is burned~~]for energy recovery~~[in devices identified in Subsection R315 15 6.2(a)].~~ Facilities burning used oil for energy recovery under the following conditions are [~~not~~]subject to [~~Section R315 15 6~~]R315-15-6.1(a) and (b) and R315-15-6.2(b) and (c), but not other portions of R315-15-6:

(1) The used oil is burned by the generator in an on-site space heater under the provisions of [~~Section~~]R315-15-2.4;

(2) The used oil is burned by a processor/re-refiner for purposes of processing used oil, which is considered burning incidentally to used oil processing; or

(3) The used oil burned by the facility is obtained from a Utah-registered marketer who claims and has demonstrated that the used oil meets the used oil fuel specifications set forth in [~~Section~~]R315-15-1.2 and who delivers the used oil in the manner set forth in [~~Subsection~~]R315-15-7.5(b).

(b) Other applicable provisions. In addition to the requirements of R315-15-6.1(a), used [~~Used~~]oil burners who conduct the following activities are [~~also~~]subject to the requirements [~~of other applicable provisions~~]of [~~Rule~~]R315-15 as indicated below.

(1) Burners who generate used oil shall [~~also~~]comply with [~~Section~~]R315-15-2;

(2) Burners who transport used oil shall [~~also~~]comply with [~~Section~~]R315-15-4;

(3) Except as provided in [~~Subsection~~]R315-15-6.2(b)(2), burners who process or re-refine used oil shall [~~also~~]comply with Section R315-15-5;

(4) Burners who direct shipments of off-specification used oil from their facility to an off-specification used oil burner or first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in [~~Section~~]R315-15-1.2 shall [~~also~~]comply with [~~Sections~~]R315-15-7 and R315-15-13.7;

(5) Burners who dispose of used oil shall comply with [~~Section~~]R315-15-8; and

(6) Burners who collect used oil [~~must~~]shall also comply with the collection center requirements in [~~Section~~]R315-15-3. Burners [~~who~~]may only burn used oil collected from other generators if that used oil has been certified to be on-specification used oil by a Utah-registered used oil marketer in compliance with [~~must become marketers and comply with the provisions of Section~~]R315-15-7. Burners who collect and burn used oil that is not[~~does not fall into the categories of~~] "do-it-yourselfer" or farmer-generated [~~used oil~~]as described in [~~Subsections~~]R315-15-2.1(a)(1) and (4), [~~must also become~~]shall obtain a used oil marketer[~~s~~] registration before burning such oil and shall[~~and~~] comply with the provisions of [~~Section~~]R315-15-7.

(7) Tanks, containers, and piping that previously contained listed hazardous waste. Unless tanks, containers, and piping that previously contained listed hazardous waste are decontaminated as described in R315-2-7 prior to storing used oil, the used oil is considered to have been mixed with the hazardous waste and shall be managed as hazardous waste unless, under the provisions of R315-15-1.1(b), the hazardous waste and used oil mixture is determined not to be hazardous waste.

(8) Tanks, containers, and piping that previously contained PCB-contaminated material. Unless tanks, containers, and piping that previously contained PCB-contaminated material are decontaminated as described in 40 CFR 761 Subpart S prior to transfer of used oil, the used oil is considered to have been mixed with the PCB-contaminated material and shall be managed as PCB-contaminated material in accordance with R315-15-18.

(c) Off-specification used oil burner permit. Off-specification used oil burners shall obtain a permit from the Director prior to burning off-specification used oil unless exempted by R315-15-13.6(b)(5). An application for a permit shall contain the information required by R315-15-13.6(b). Off-specification used oil burners shall also obtain a used oil handler certificate in accordance with R315-15-13.8.

(d) Testing of used oil fuel for PCBs. Used oil to be burned for energy recovery is presumed to contain quantifiable levels, 2 ppm or greater, of PCBs unless a used oil marketer obtains laboratory analyses that the used oil fuel does not contain quantifiable levels of PCBs. The person who first claims that the used oil fuel does not contain a quantifiable level of PCBs shall obtain analyses or other information to support the claim, as described in R315-15-18.

~~[(c) Specification fuel. Persons burning used oil that meets the used oil fuel specifications of Section R315 15 1.2 under the conditions described in Subsections R315-15-6.1(a)(1) through (3) are not subject to Section R315-15-6, provided that the burner complies with the requirements of Section R315-15-7 and Subsection R315 15 13.6(a).]~~

6.2 RESTRICTIONS ON BURNING

(a) Off-specification used oil fuel may be burned for energy recovery in only the following devices:

(1) Industrial furnaces identified in [~~Section~~]R315-1-1(b), which incorporates by reference 40 CFR 260.10;

(2) Boilers, as defined in [~~Section~~]R315-1-1(b), which incorporates by reference 40 CFR 260.10, that are identified as follows:

(i) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes;

(ii) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale;

(iii) Used oil-fired space heaters provided that the burner meets the provisions of [~~Section~~]R315-15-2.4; or

(3) Hazardous waste incinerators subject to regulation under [~~Section~~]R315-7-22 or R315-8-15.

(b)(1) With the [~~following~~]exception of the aggregation activity described in R315-15-6.2(b)(2), [~~off-specification~~]used oil burners may not process used oil unless they also comply with [~~the requirements of Section~~]R315-15-5.

(2) Off-specification used oil burners may aggregate off-specification used oil with virgin oil or on-specification used oil for purposes of burning, but may not aggregate for purposes of [~~producing~~]marketing on-specification used oil without also complying with the processor/re-refiner requirements in [~~Section~~]R315-15-5.

(c) Burning of hazardous waste. Used oil burners may only burn hazardous waste if they are permitted to do so by the Director.

6.3 NOTIFICATION FOR OFF-SPECIFICATION USED OIL BURNERS

(a) Identification numbers. Off-specification used oil burners [~~which~~]who have not previously complied with the notification requirements of RCRA section 3010 shall comply with these requirements and obtain an EPA identification number.

(b) Mechanics of notification. An off-specification used oil burner who has not received an EPA identification number may obtain one by notifying the [~~Executive Secretary~~]Director of their used oil activity by submitting either:

(1) A completed EPA Form 8700-12. [~~To obtain EPA Form 8700-12 call Utah Division of Solid and Hazardous Waste at 801-538-6170~~]; or

(2) A letter to the [~~Division~~]Director requesting an EPA identification number. The letter shall include the following information:

- (i) Burner company name;
- (ii) Owner of the burner company;
- (iii) Mailing address for the burner;
- (iv) Name and telephone number for the burner point of contact;
- (v) Type of used oil activity; and
- (vi) Location of the burner facility.

6.4 REBUTTABLE PRESUMPTION FOR USED OIL

(a) To ensure that used oil managed at a used oil burner facility is not hazardous waste under the rebuttable presumption of Subsection R315-15-1.1(b)(1)(ii), a used oil burner shall determine whether the total halogen content of used oil managed at the facility is above or below 1,000 ppm.

(b) The used oil burner shall determine if the used oil contains above or below 1,000 ppm total halogens by[+]

- (1) Testing the used oil;
- (2) Applying documented generator knowledge of the halogen content of the used oil in light of the materials or processes used; or
- (3) Using information provided by the processor/re-refiner, if the used oil has been received from a processor/re-refiner subject to regulation under [~~Section~~]R315-15-5.

(c) If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in [~~Section~~]R315-2-10. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste, for example, by using an analytical method from SW-846, Edition III update IV, to show that the used oil does not contain significant concentrations of halogenated hazardous

constituents listed in R315-50-10, which incorporates by reference 40 CFR 261 Appendix VIII. [~~SW 846, Edition III, is available for review during normal business hours at the Utah Division of Solid and Hazardous Waste office, located at 288 North 1460 West, Salt Lake City, Utah. To schedule an appointment, call 801-538-6170.~~]

(1) The rebuttable presumption does not apply to metalworking oils/fluids containing chlorinated paraffins, if they are processed~~[7]~~ through a tolling arrangement, as described in [~~Subsection~~]R315-15-2.5(c), to reclaim metalworking oils/fluids. The presumption does apply to metalworking oils/fluids if such oils/fluids are recycled in any other manner~~[7]~~ or disposed.

(2) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

(d) Record retention. Records of analyses conducted or information used to comply with [~~paragraphs~~]R315-15-6.4(a), (b), and (c) [~~of this section~~] shall be maintained at the burner facility or another facility approved by the Director~~[by the burner]~~ for at least 3 years.

6.5 USED OIL STORAGE AT OFF-SPECIFICATION USED OIL BURNER FACILITIES

Off-specification used~~[Used]~~ oil burners are subject to all applicable Spill Prevention, Control and Countermeasures, 40 CFR part 112, in addition to the requirements of [~~Section~~]R315-15-6. Used oil burners are also subject to the standards and requirements of [~~Rules~~]R311-200 through R311~~[5]~~-209, Underground Storage Tanks, for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of [~~Section~~]R315-15-6.

(a) Storage units. Off-specification used~~[Used]~~ oil burners may not store used oil in units other than tanks, containers~~[7]~~ or units subject to regulation under [~~Rule~~]R315-7 ~~[or]~~ and R315-8.

(b) Condition of units. Containers and aboveground tanks used to store oil at off-specification used oil burner facilities shall be:

(1) In good condition, with no severe rusting, apparent structural defects, or deterioration; and

(2) Not leaking~~[(no visible leaks)]~~.

(c) Secondary containment. Containers~~[, existing aboveground tanks,]~~ and [~~new~~]aboveground tanks used to store off-specification used oil at burner facilities, including their pipe connections and valves, shall be equipped with a secondary

containment system.

(1) The secondary containment system shall consist of [~~at a minimum~~]:

(i) Dikes, berms, or retaining walls; and

(ii) A floor. The floor shall cover the entire area within the dike, berm, or retaining wall, except areas where existing portions of [~~existing~~] aboveground tanks meet the ground.

(iii) Other equivalent secondary containment approved by the Director.

(2) The entire containment system, including walls and floor, shall be of sufficient extent and sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

(3) Any accumulation of water, used oil, or other liquid shall be removed from secondary containment within 24 hours of discovery.

(4) Used oil shall not be stored or allowed to accumulate in sumps and similar water-containment structures at the facility. Any used oil in sumps and similar water-containment structures shall be removed within 24 hours of its discovery.

(d) Labels.

(1) Containers and aboveground tanks used to store off-specification used oil at burner facilities shall be labeled or marked clearly with the words "Used Oil."

(2) Fill pipes used to transfer off-specification used oil into underground storage tanks at burner facilities shall be labeled or marked clearly with the words "Used Oil."

(e) Response to releases. Upon detection of a release of used oil to the environment not subject to the requirements of [~~Section~~]R311-202-1, [~~which incorporates by reference 40 CFR 280, Subpart F,~~] a burner shall comply with [~~Section~~]R315-15-9.

6.6 TRACKING FOR OFF-SPECIFICATION USED OIL FACILITIES

(a) Acceptance. Off-specification used oil burners shall keep a record of each off-specification used oil shipment accepted for burning. These records may take the form of a log, invoice, manifest, bill of lading, or other shipping documents. Records for each shipment shall include the following information:

(1) The name and address of the transporter who delivered the used oil to the burner;

(2) The name and address of the generator or processor/refiner from whom the used oil was sent to the burner;

(3) The EPA identification number of the transporter who delivered the used oil to the burner;

(4) The EPA identification number, if applicable, of the

generator or processor/re-refiner from whom the used oil was sent to the burner;

(5) The quantity of used oil accepted; ~~and~~

(6) The date of acceptance; ~~and~~

(7) Documentation demonstrating that the transporter has met the rebuttable presumption requirements of R315-15-6.4 and, where applicable, the PCB testing requirements of R315-15-18;

(b) Record retention. The records described in paragraph (a) of this section shall be maintained for at least three years.

6.7 NOTICES

(a) Certification. Before a burner accepts the first shipment of off-specification used oil fuel from a generator, transporter, or processor/re-refiner, the burner shall provide to the generator, transporter, or processor/re-refiner a one-time written and signed notice certifying that:

(1) The burner has notified the ~~[Executive Secretary]~~ Director ~~[stating]~~ of the location and general description of ~~[his]~~ the burner's used oil management activities; and

(2) The burner will burn the off-specification used oil only in an industrial furnace or boiler identified in ~~[Subsection]~~ R315-15-6.2(a).

(b) Certification retention. The certification described in ~~[paragraph]~~ R315-15-6.7(a) ~~[of this section]~~ shall be maintained, at the permitted facility or other location approved by the Director, for three years from the date the burner last receives shipment of off-specification used oil from that generator, transporter, or processor/re-refiner.

6.8 MANAGEMENT OF RESIDUES AT OFF-SPECIFICATION USED OIL BURNER FACILITIES

Off-specification used oil ~~[B]~~ burners who generate residues from the storage or burning of used oil shall manage the residues as specified in ~~[Subsection]~~ R315-15-1.1(e).

6.9 ACCEPTANCE OF OFF-SITE USED OIL

Off-specification used oil burners accepting used oil from off-site shall ensure that transporters delivering used oil to their facility have obtained a current used oil transporter permit and an EPA identification number.

R315-15-7. Standards for Used Oil Fuel Marketers.

7.1 APPLICABILITY

(a) Any person who conducts either of the following activities is a used oil fuel marketer and is subject to the requirements of ~~[Sections]~~ R315-15-7 and R315-15-13.7:

(1) Directs a shipment of off-specification used oil from their facility to a used oil burner; or

(2) First determines and claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in [~~Section~~]R315-15-1.2.

(b) The following persons are not used oil fuel marketers subject to [~~Section~~]R315-15-7:

(1) Used oil generators, and transporters who transport used oil received only from generators, unless the generator or transporter directs a shipment of off-specification used oil from their facility to a used oil burner. However, processors/re-refiners who burn some used oil fuel for purposes of processing are considered to be burning incidentally to processing. Thus, generators and transporters who direct shipments of off-specification used oil to processors/re-refiners who incidentally burn used oil are not marketers subject to [~~Section~~]R315-15-7;

(2) Persons who direct shipments of on-specification used oil and who are not the first person to claim the oil meets the used oil fuel specifications of [~~Section~~]R315-15-1.2.

(c) Any person subject to the requirements of [~~Section~~]R315-15-7 shall also comply with one of the following:

(1) [~~Section~~]R315-15-2 - Standards for Used Oil Generators;

(2) [~~Section~~]R315-15-4 - Standards for Used Oil Transporters and Transfer Facilities;

(3) [~~Section~~]R315-15-5 - Standards for Used Oil Processors and Re-refiners; or

(4) [~~Section~~]R315-15-6 - Standards for Used Oil Burners who Burn Off-Specification Used Oil for Energy Recovery.

(d) A person may not act as a used oil fuel marketer without receiving a registration number and a used oil handler certificate, both issued by the [~~Executive Secretary~~]Director as required by [~~pursuant to Section~~]R315-15-13.7 and R315-15-13.8.

7.2 PROHIBITIONS

A used oil fuel marketer may initiate a shipment of off-specification used oil only to a used oil burner who:

(a) Has an EPA identification number; and

(b) Burns the used oil in an industrial furnace or boiler identified in [~~Subsection~~]R315-15-6.2(a).

7.3 ON-SPECIFICATION USED OIL FUEL

(a) Analysis of used oil fuel. A used oil fuel marketer who is a used oil generator, transporter, transfer facility, processor/re-refiner, or burner may determine that used oil that is to be burned for energy recovery meets the fuel specifications of [~~Section~~]R315-15-1.2 and the PCB requirements of R315-15-18 by performing analyses or obtaining copies of analyses or other information approved by the Director documenting that the used oil fuel meets the specifications. Used oil is not considered to be

on-specification until it has been certified as such by a registered used oil fuel marketer in accordance with the used oil fuel marketer's analysis plan, approved by the Director.

(b) Record retention. A generator, transporter, transfer facility, processor/re-refiner, or burner who first certifies ~~[claims]~~ that used oil that is to be burned for energy recovery meets the specifications for used oil fuel under ~~[Section]~~ R315-15-1.2 and the PCB requirements of R315-15-18~~[7]~~ shall keep copies of analyses of the used oil, or other information used to make the determination, for three years.

7.4 NOTIFICATION

(a) Identification numbers. A used oil fuel marketer subject to the requirements of ~~[Section]~~ R315-15-7 who has not previously complied with the notification requirements of RCRA section 3010 shall comply with these requirements and obtain an EPA identification number.

(b) A marketer who has not received an EPA identification number may obtain one by notifying the ~~[Executive Secretary]~~ Director of their used oil activity by submitting either:

(1) A completed EPA Form 8700-12~~[, which can be obtained by calling the Utah Division of Solid and Hazardous Waste at 801-538-6170]~~; or

(2) A letter to the ~~[Division]~~ Director requesting an EPA identification number. The letter shall include the following information:

- (i) Marketer company name;
- (ii) Owner of the marketer;
- (iii) Mailing address for the marketer;
- (iv) Name and telephone number for the marketer point of contact; and
- (v) Type of used oil activity, e.g., generator directing shipments of off-specification used oil to a burner.

7.5 TRACKING

(a) Off-specification used oil delivery. Any used oil marketer who directs a shipment of off-specification used oil to a burner shall keep a record of each shipment of used oil to a used oil burner. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment shall include the following information:

(1) The name and address of the transporter who delivers the used oil to the burner;

(2) The name and address of the burner who will receive the used oil;

(3) The EPA identification number of the transporter who delivers the used oil to the burner;

- (4) The EPA identification number of the burner;
- (5) The quantity of used oil shipped; and
- (6) The date of shipment.

(b) On-specification used oil delivery. A generator, transporter, transfer facility, processor/re-refiner, or burner who first certifies~~[elaims]~~ that used oil that is to be burned for energy recovery meets the fuel specifications under ~~[Section]~~ R315-15-1.2 shall keep a record of each shipment of used oil to an on-specification used oil burner. Records for each shipment shall include the following information:

- (1) The name and address of the facility receiving the shipment;
- (2) The quantity of used oil fuel delivered;
- (3) The date of shipment or delivery; and
- (4) A cross-reference to the record of used oil analysis or other information used to make the determination that the oil meets the specifications ~~[as]~~ required under ~~[Subsection]~~ R315-15-7.3(a) and the PCB requirements of R315-15-18.

(c) Record retention. The records described in ~~R315-15-7.5[paragraphs]~~(a) and (b) ~~[of this section]~~ shall be maintained for at least three years.

7.6 NOTICES

(a) Certification. Before a used oil generator, transporter, transfer facility, or processor/re-refiner directs the first shipment of off-specification used oil fuel to a burner, he shall obtain a one-time written and signed notice from the burner certifying that:

(1) The burner has notified the ~~[Executive Secretary]~~Director stating the location and general description of used oil management activities; and

(2) The burner has obtained an EPA identification number and, if the off-specification used oil is burned in Utah, an off-specification used oil burner permit and current used oil handler certificate from the Director; and

~~[[2]3]~~ The burner will burn the off-specification used oil only in an industrial furnace or boiler identified in ~~[Subsection]~~ R315-15-6.2(a).

(b) Certification retention. The certification described in ~~[paragraph]~~ R315-15-7.6(a) of this section shall be maintained for three years, at the permitted facility or other location approved by the Director, from the date the last shipment of off-specification used oil is shipped to the burner.

7.7 LABORATORY ANALYSES

Used oil marketers shall use a Utah-certified laboratory, as specified in R315-15-1.8, to satisfy the analytical requirements

of R315-15-7.

R315-15-8. Standards for the Disposal of Used Oil.

8.1 APPLICABILITY

The requirements of [~~Section~~]R315-15-8 apply to all used oils that cannot be recycled and are therefore being disposed.

8.2 DISPOSAL

(a) Disposal of hazardous used oils. Used oils that are identified as a hazardous waste and cannot be recycled in accordance with [~~Rule~~]R315-15 shall be managed in accordance with the hazardous waste management requirements of [~~Rules~~]R315-1 through R315-14, and R315-50.

(b) Disposal of nonhazardous used oils. Used oil may not be disposed in any solid waste treatment, storage, or disposal facility operated by a political subdivision or a private entity, except as authorized for the disposal of used oil that is hazardous waste under law or in sewers, drainage systems, septic tanks, surface or ground waters, watercourses, or any body of water or on the ground.

(c) Materials containing or otherwise contaminated with nonhazardous used oil. Materials containing or otherwise contaminated with nonhazardous used oil, shall be handled in accordance with R315-15-1.1(c). [~~Used oils that are not hazardous wastes and cannot be recycled under Rule R315-15 shall be disposed in a solid waste disposal facility meeting the applicable requirements of Rules R315-301 through R315-318 and authorized by the Board.~~]

8.3 USE AS A DUST SUPPRESSANT, WEED SUPPRESSANT, OR FOR ROAD OILING

The use of used oil as a dust suppressant, weed suppressant, or for road oiling or other similar use is prohibited.

R315-15-9. Emergency Controls.

9.1 IMMEDIATE ACTION

In the event of a release of used oil, the person responsible for the material at the time of the release shall immediately:

(a) Take appropriate action to minimize the threat to human health and the environment.

- (1) Stop the release;
- (2) Contain the release;
- (3) Clean up and manage properly the released material as described in R315-15-9.3; and
- (4) If necessary, repair or replace any leaking used oil tanks, containers, and ancillary equipment prior to returning them to service.

(b) Notify the Utah State Department of Environmental Quality, 24-hour Answering Service, 801-536-4123 for used oil releases exceeding 25 gallons, or smaller releases that pose a potential threat to human health or the environment. Small leaks and drips from vehicles are considered de minimis and are not subject to the release clean-up provisions of R315-15-9.

(c) Provide the following information when reporting the release:

(1) Name, phone number, and address of person responsible for the release.

(2) Name, title, and phone number of individual reporting.

(3) Time and date of release.

(4) Location of release--as specific as possible including nearest town, city, highway, or waterway.

(5) Description contained on the manifest and the amount of material released.

(6) Cause of release.

(7) Possible hazards to human health or the environment and emergency action taken to minimize that threat.

(8) The extent of injuries, if any.

(d) An air, rail, highway, or water transporter who has discharged used oil shall:

(1) Give notice, if required by 49 CFR 171.15 to the National Response Center, <http://nrc.uscg.mil/nrchp.html> 800-424-8802 or 202-426-2675; and

(2) Report in writing as required by 49 CFR 171.16 to the Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590.

(e) A water, bulk shipment, transporter who has discharged used oil shall give the same notice as required by 33 CFR 153.203 for oil and hazardous substances.

9.2 EMERGENCY CONTROL VARIANCE

If a release of used oil requires immediate removal to protect human health or the environment, as determined by the ~~[Executive Secretary]~~Director, a variance to the used oil transporter permit and used oil handler certificate requirement and the US EPA identification number requirement for used oil transporters may be granted by the ~~[Executive Secretary]~~Director ~~[to the EPA Identification Number requirement for used oil transporters]~~until the released material and any residue or contaminated soil, water, or other material resulting from the release no longer presents an immediate hazard to human health or the environment, as determined by the ~~[Executive Secretary]~~Director.

9.3 RELEASE CLEAN-UP

The person responsible for the material at the time of the release shall clean up all the released material and any residue or contaminated soil, water or other material resulting from the release or take action as may be required by the [~~Executive Secretary~~]Director so that the released material, residue, or contaminated soil, water, or other material no longer presents a hazard to human health or the environment. The Director may require releases to be cleaned up to standards found in US EPA Regional Screening Levels. The cleanup or other required actions shall be at the expense of the person responsible for the release.

9.4 REPORTING

Within 15 days after any release of used oil that is reported under R315-15-9.1(b), the person responsible for the material at the time of the release shall submit to [~~the Board or~~]the [~~Executive Secretary~~]Director a written report [~~which~~]that contains the following information:

- (a) The person's name, address, and telephone number;
- (b) Date, time, location, and nature of the incident;
- (c) Name and quantity of material(s) involved;
- (d) The extent of injuries, if any;
- (e) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and
- (f) The estimated quantity and disposition of recovered material that resulted from the incident.

R315-15-10. Financial Requirements.

(a) Used oil activities. An owner or operator of an off-specification burner facility, transportation facility, processing[~~7~~]/ re-refining facility, or transfer facility, or a group of such facilities, is financially responsible for:

- (1) cleanup and closure costs;[~~7~~]
- (2) general liabilities, including operation of motor vehicles, worker compensation and contractor liability;[~~7~~] and
- (3) environmental pollution legal liability for bodily injury or property damage to third parties resulting from sudden or non-sudden used oil releases.

(i)(A) The owner or operator of a permitted used oil facility or operation shall present evidence satisfactory to the [~~Executive Secretary~~]Director of its ability to meet these financial requirements.

(B) The owner or operator shall present with its permit application the information the [~~Executive Secretary~~]Director requires to demonstrate its general comprehensive liability coverage.

(C) The owner or operator shall use the financial mechanisms described in [~~Section~~]R315-15-12 to demonstrate its ability to meet the financial requirements of [~~Subsection~~]R315-15-10(a)(1) and (a)(3).

 (ii) In approving the financial mechanisms used to satisfy the financial requirements, the [~~Executive Secretary~~]Director will take into account existing financial mechanisms already in place by the facility if required by [~~Sections~~]R315-7-15, R315-8-8, and R311-201-6. Additionally, the [~~Executive Secretary~~]Director will consider other relevant factors in approving the financial mechanisms, such as the volumes of used oil handled and existing secondary containment.

 (iii) Financial responsibility, environmental pollution legal liability and general liability coverage shall be provided to the [~~Executive Secretary~~]Director as part of the permit application and approval process and shall be maintained until released by [~~Executive Secretary~~]Director.

 (iv) Changes in extent, type, or amount of the environmental pollution legal liability and financial responsibility shall be considered a permit modification requiring notification to and approval from the [~~Executive Secretary~~]Director.

(b)(1) Environmental pollution legal liability coverage for third party damages at used oil facilities. Each used oil processor, re-refiner, transfer facility, and off-specification burner shall obtain and maintain environmental pollution liability coverage for bodily injury and property damage to third parties resulting from sudden and non-sudden accidental releases of used oil at its facility. This liability coverage shall be maintained for the duration of the permit or until released by the [~~Executive Secretary~~]Director as provided for in R315-15-10.[~~this section.~~]

 (2) Changes in extent, type, or amount of the financial mechanism will be considered a permit modification requiring notification to and approval from the [~~Executive Secretary~~]Director. The minimum amount of environmental pollution legal liability coverage using an assurance mechanism as specified in this section for third-party damages shall be:

([1]i) For operations where individual volumes of used oil are greater than 55 gallons, such as tanks, storage vessels, used oil processing equipment, and that are raised above grade-level sufficiently to allow for visual inspection of the underside for releases shall be required to obtain coverage in the amount of \$1 million per occurrence for sudden releases, with an annual aggregate coverage of \$2 million, exclusive of legal defense costs;[7] and

([2]ii) For operations in whole or part that do not qualify

under ~~[Subsection—]~~R315-15-10(b)(1), coverage shall be in the amount of \$1 million per occurrence for sudden releases, with an annual aggregate coverage of \$2 million, and \$3 million per occurrence for non-sudden releases, with an annual aggregate coverage of \$6 million, exclusive of legal defense costs;~~[-]~~

(~~[3]~~iii) For operations covered under ~~[Subsection—]~~R315-15-10(b)(2), the owner or operator may choose to use a combined liability coverage for sudden and non-sudden accidental releases in the amount of \$4 million per occurrence, with an annual aggregate coverage of \$8 million, exclusive of legal defense costs.

(c) Used oil transporter environmental pollution legal liability coverage for third party damages. Each used oil transporter shall obtain environmental pollution legal liability coverage for bodily injury and property damage to third parties covering sudden accidental releases of used oil from its vehicles and other equipment and containers used during transit, loading, and unloading in Utah, and shall maintain this coverage for the duration of the permit or until released by the ~~[Executive Secretary—]~~Director as provided for R315-15-10~~[in this section]~~. The minimum amount of the coverage for used oil transporters shall be \$1 million per occurrence for sudden releases, with an annual aggregate coverage of \$2 million, exclusive of legal defense costs. Changes in extent, type, or amount of the liability coverage shall be considered a permit modification requiring notification to and approval from the ~~[Executive Secretary—]~~Director.

(d) An owner or operator responsible for cleanup and closure under ~~[Section—]~~R315-15-11 or environmental pollution legal liability for bodily injury and property damage to third parties under ~~[Subsections—]~~R315-15-10(b) and (c) shall demonstrate its ability to satisfy its responsibility to the ~~[Executive Secretary—]~~Director through the use of an acceptable financial assurance mechanism indicated under ~~[Section—]~~R315-15-12.

(e) Used Oil Collection Centers. Except for DIYers, who are subject to Utah Code Annotated 19-6-718, [A]an owner of a used oil collection center shall be subject to the same liability requirements as a permitted facility under [Subsection—]R315-15-10(a) and (b) unless these requirements are waived by the [Executive Secretary—]Director. [Pursuant]In accordance with [to Section—]Utah Code Annotated 19-6-710, the [Executive Secretary—]Director may waive the requirement of proof of liability insurance or other means of financial responsibility that may be incurred in collecting or storing used oil if the following criteria are satisfied:

(1) The used oil storage tank or container is in good condition with no severe rusting, apparent structural defects or deterioration, and no visible leaks;

(2) There is adequate secondary containment for the tank or container that is impervious to used oil to prevent any used oil released into the secondary containment system from migrating out of the system;

(3) The storage tank or container is clearly labeled with the words "Used Oil";

(4) DIYer log entries are complete including the name and address of the generator, date and quantity of used oil received; and

(5) Oil sorbent material is readily available on site for immediate cleanup of spills.

(f) The ~~[Executive Secretary]~~ Director shall ~~[release]~~ waive an owner or operator from its existing financial responsibility mechanism as described in ~~[Section]~~ R315-15-10 when:

(1) The ~~[Executive Secretary]~~ Director approves an alternative mechanism;

(2) The owner or operator has achieved cleanup and closure according to ~~[Section]~~ R315-15-11; or

(3) The ~~[Executive Secretary]~~ Director determines that financial responsibility is no longer applicable under ~~[Rule]~~ R315-15.

(g) State of Utah and Federal government used oil permittees are exempt from the requirements of ~~[Section]~~ R315-15-10.

R315-15-11. Cleanup and Closure.

11.1 The owner or operator of a used oil collection, aggregation, transfer, processing/re-refining, or off-specification used oil burning facility shall remove all used oil and used oil residues from the site of operation and return the site to a post-operational land use in a manner that:

(a) Minimizes the need for further maintenance;

(b) Controls, minimizes, or eliminates, to the extent necessary to protect human health and the environment, post-closure escape of used oil, used oil constituents, leachate, contaminated run-off, or used oil decomposition products to the ground or surface waters, or to the atmosphere; and

(c) Complies with the closure requirements of ~~[Section]~~ R315-15-11 or supplies evidence acceptable to the ~~[Executive Secretary]~~ Director demonstrating a closure mechanism meeting the requirements of ~~[Section]~~ R315-7-15~~[7]~~ and R315-8-8~~[7, or 311-201-6]~~.

(d) The permittee shall be responsible for used oil, used

oil contaminants, or used oil residual materials that have been discharged or migrate beyond the facility property boundary. The permittee is not relieved of all or any responsibility to cleanup, remedy or remediate a release that has discharged or migrated beyond the facility boundary where off-site access is denied. When off-site access is denied, the permittee shall demonstrate to the satisfaction of the [~~Executive Secretary~~]Director that, despite the permittee's best efforts, the permittee was unable to obtain the necessary permission to undertake the actions to cleanup, remedy or remediate the discharge or migration. The responsibility for discharges or migration beyond the facility property boundary does not convey any property rights of any sort, or any exclusive privilege to the permittee.

11.2 CLEANUP AND CLOSURE PLAN

(a) Written plan.

(1) The owner or operator of a used oil transfer, off-specification burner, or processing/re-refining facility shall have a written cleanup and closure plan. The cleanup and closure plan shall be submitted to the [~~Executive Secretary~~]Director for approval as part of the permit application.

(2) When physical or operational conditions at the facility change that result in a change in the nature or extent of cleanup and closure or an increase in the estimated costs of cleanup and closure, the owner or operator shall submit a modified plan for review and approval by the [~~Executive Secretary~~]Director.

(3) Changes in the amount or face value of a financial mechanism that are the result of the annual inflation update from the application of the implicit price deflator multiplier to a permit cleanup and closure plan cost estimate shall not require approval by the [~~Executive Secretary~~]Director.

(4) The adjustment shall be made by recalculating the cleanup closure cost estimate in current dollars or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross Domestic Product published by the U.S. Department of Commerce, Bureau of Economic Analysis in its Survey of Current Business as specified in [~~Section~~]40 CFR 264.145(b)(1) and (2). The inflation factor is the incremental increase of the latest published annual Deflator to the Deflator for the previous year divided by the previous year Deflator. The first adjustment is made by multiplying the cleanup closure cost estimate by the inflation factor. The result is the adjusted cleanup closure cost estimate. Subsequent adjustments are made by multiplying the latest adjusted cleanup closure cost estimate by the latest inflation factor.

(b) Content of plan. The plan shall identify steps

necessary to perform partial or final cleanup and closure of the facility at any point during its active life.

(1) The cleanup and closure plan shall be based on third-party, direct-estimated costs or on third-party costs using RS Means methods, applications, procedures, and use cost values applicable to the location of the facility and include, at least:

(i) A description of how each used oil management unit at the facility will be closed.

(ii) A description of how final cleanup and closure of the facility will be conducted. The description shall identify the maximum extent of the operations [~~which~~]that will be cleaned, closed, or both during the active life of the facility.

(iii) [~~An~~]The highest cost estimate of the maximum inventory of used oil to be stored onsite at any one time during the life of the facility and a detailed description of the methods to be used during partial cleanup and closure final cleanup and closure, or both, including, but not limited to, methods for removing, transporting, or disposing of all used oil, and identification of the off-site used oil facilities to be used, if applicable.

(iv) A detailed description of the steps needed to remove or decontaminate all used oil and used oil residues and contaminated containment system components, equipment, structures, and soils during partial or final cleanup and closure, including procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination required to satisfy closure. This description shall address the management and disposal of all residues resulting from the decontamination activity, including, but not limited to, rinse waters, rags, personal protective equipment, small hand implements, vehicles, and mechanized equipment.

(v) A detailed description of other activities necessary during the cleanup and closure period to ensure that all partial closures shall satisfy the final cleanup and closure plan.

(vi) A cleanup and closure cost estimate and a mechanism for financial responsibility to cover the cost of cleanup and closure[-]

(vii) State of Utah and Federal government used oil permittees are exempt from the requirements of [~~Subsection~~]R315-15-11(b)(1)(vi).

(2) The owner or operator shall update its cleanup and closure plan cost estimate and provide the updated estimate to the [~~Executive Secretary~~]Director, in writing, within 60 days following a facility modification that causes an increase in the

amount of the financial responsibility required under [~~Section~~ R315-15-10. Within 30 days of the [~~Executive Secretary's~~ Director's approval of a permit modification for the cleanup and closure plan that would result in an increased cost estimate, the owner or operator shall provide to the [~~Executive Secretary~~ Director:

(i) evidence that the financial assurance mechanism amount or value includes the cleanup and closure cost estimate increase; or

(ii) other mechanisms covering the increased closure plan cost estimate and a summary document indicating the multiple financial mechanisms, by mechanism name, account number, and the amounts to satisfy [~~Sections~~]R315-15-10 and 11.

(c) The owner or operator shall update the cleanup and closure cost estimate to adjust for inflation and include the updated estimate in the permitted facility's annual report due by March 1st of each year, using either:

(1) the multiplier formed from the gross domestic product implicit price deflator ratio of the current calendar year to the past calendar year as published by the federal government Bureau of Economic Analysis; or

(2) new cleanup and closure cost estimate from the recalculation of the cleanup and closure plan costs to account for all changes in scope and nature of the facility or facilities, in current dollars.

11.3 TIME ALLOWED TO INITIATE CLOSURE

(a) The owner or operator shall initiate closure in accordance with the approved cleanup and closure plan and notify the [~~Executive Secretary~~ Director [of this fact] that closure has been initiated:

(1) Within 90 days after the owner or operator receives the final volume of used oil; or

(2) [~~The Executive Secretary~~ Within 90 days after the Director revokes the facility's used oil permit.

(b) During the cleanup and closure period or at any other time, if the [~~Executive Secretary~~ Director determines that the owner or operator has failed to comply with [~~Rule~~]R315-15, the [~~Executive Secretary~~ Director may, after 30 days following[, on] written notice to the owner or operator, draw upon the financial mechanism associated with the cleanup and closure plan for the facility or facilities covered by the financial responsibility requirements of [~~Section~~]R315-15-10.

11.4 CERTIFICATION OF CLOSURE

(a) Within 60 days of completion of cleanup and closure, the owner or operator of a permitted used oil facility shall submit to

the ~~[Executive Secretary]~~Director, by registered mail, a certification that the used oil facility has been cleaned and closed in accordance with the specifications in the approved cleanup and closure plan. The certification shall be signed by the owner or operator and by an independent, Utah-registered professional engineer.

(b) The ~~[Executive Secretary]~~Director shall make the determination of whether cleanup and closure has been completed according to the cleanup and closure plan and ~~[Rule]~~R315-15.

R315-15-12. Financial Assurance.

12.1 DEFINITIONS

For the purposes of ~~[Section]~~R315-15-12, the following definitions apply:

(a) "Existing used oil facility" means any used oil transfer facility, off-specification burner, or used oil processing/re-refining facility in operation on July 1, 1993 under a used oil operating permit issued by the Division of Oil, Gas and Mining and in effect on or before June 30, 1993. An existing used oil facility is also required to obtain a permit from the ~~[Executive Secretary]~~ Director in accordance with ~~[Section]~~R315-15-13.

(b) "New used oil facility" means any used oil transfer, off-specification burner, or used oil processing/re-refining facility that was not in operation as a used oil facility on July 1, 1993, and received an operating permit in accordance with ~~[Section]~~R315-15-13 from the ~~[Executive Secretary]~~Director after July 1, 1993.

(c) "Financial assurance mechanism" means "reclamation surety" as used in ~~[Sections]~~ Utah Code Annotated 19-6-709 and 19-6-710 of the Used Oil Management Act.

12.2 APPLICABILITY

(a) The owner or operator of an existing or new used oil facility requiring a permit under ~~[Section]~~R315-15-13 shall establish a financial assurance mechanism as evidence of financial responsibility under ~~[Section]~~R315-15-10 sufficient to assure cleanup and closure of the facility in conformance~~[ity]~~ with ~~[Subsection]~~R315-15-11.1 with one or more of the financial assurance mechanisms of ~~[Subsection]~~R315-15-12.3 prior to receiving a permit from the ~~[Executive Secretary]~~Director.

(b) Any increase in capacity to store or process used oil at a used oil facility permitted by the ~~[Executive Secretary]~~Director, above the storage or processing capacity identified in the permit application approved by the ~~[Executive Secretary]~~Director, shall require the owner or operator of the permitted used oil facility to increase the amount or face value

of the financial assurance mechanism to meet the additional capacity. The additional amount or increase in face value of financial assurance mechanism shall be in place and effective before operation of the increased storage or processing capacity and shall meet the requirements of [~~Subsections~~]R315-15-12.3 and R315-15-12.4.

(c) DIYer used oil collection centers, generator used oil collection centers, and used oil aggregation points are not required to post a financial assurance mechanism, but are subject to the cleanup and closure requirements of [~~Sections~~]R315-15-10 and R315-15-11 unless they have received a waiver in writing from the [~~Executive Secretary~~] Director [~~under Subsection~~] as identified in R315-15-10(e).

12.3 FINANCIAL ASSURANCE MECHANISMS

(a) Any financial assurance mechanism used to show financial responsibility under [~~Sections~~]R315-15-10 and 11 for an existing or new used oil facility shall:

(1) be legally valid, binding, and enforceable under Utah and federal law;

(2) be approved by the [~~Executive Secretary~~] Director;

(3) ensure that funds will be available in a timely fashion for:

(i) completing all cleanup and closure activities indicated in the closure plan of the permit approved by the [~~Executive Secretary~~] Director; and

(ii) environmental pollution legal liability for third party damages for bodily injury and property damage resulting from a sudden or non-sudden accidental release of used oil from or arising from permitted operations; and

(4) require a written notice sent by certified mail to the [~~Executive Secretary~~] Director 120 days prior to cancellation or termination of the financial mechanism.

(5) be updated each year to adjust for inflation, using either:

(i) the gross domestic product implicit price deflator ratio of the increase of the current calendar year to the past calendar year or

(ii) a new estimated cleanup and closure cost estimate recalculated to account for all changes in scope and nature of the permitted operation.

(b) The owner or operator of an existing or new used oil facility shall establish a financial assurance mechanism for cleanup and closure by one of the following mechanisms and shall submit a signed original or an original signed duplicate of the financial assurance mechanism to the [~~Executive Secretary~~]

]Director for approval as part of the permit application:

(1) Trust Fund.

(i) The trustee shall be an entity [~~which~~]that has the authority to act as a trustee and whose operations are regulated and examined by a federal or state agency.

(ii) A signed original or an original signed duplicate of the trust agreement and accompanied by a formal certification of acknowledgement shall be submitted to the [~~Executive Secretary~~]Director.

(iii) For trust funds that are fully funded at the time of permit approval, an annual trust valuation shall be certified and submitted to the Director. The permittee shall provide evidence annually, upon the anniversary of the trust agreement, that the trust remains fully funded.

(iv) For trust funds not fully funded at the time of permit approval by the [~~Executive Secretary~~]Director, incremental payments into the trust fund shall be made annually by the owner or operator to fully fund the trust within five years of the [~~Executive Secretary's~~]Director's approval of the permit as follows:

(A) initial payment value shall be the initial cleanup and closure cost estimate value divided by the pay-in period, not to exceed five years, and

(B) next payment value shall be the difference of the approved current cleanup and closure cost estimate less the trust fund value, all divided by the remaining number of years in the pay-in period, and

(C) subsequent next payments shall be made into the trust fund annually on or before the anniversary date of the initial payment made into the trust fund and reported in accordance with the approved trust agreement, and

(D) no latter than 30 days after the last incremental payment to fully fund the trust, the permittee shall provide proof to the [~~Executive Secretary~~]Director [~~in writing~~]that the trust fund has been fully funded according to the current permitted cleanup and closure cost estimate.

(E) The facility shall submit an annual valuation of the trust to the Director on or before the anniversary date of the trust.

(~~iv~~) For a new used oil facility, the payment into the trust fund shall be made before the initial receipt of used oil.

[~~(v) For an existing used oil facility, the payment into the trust fund shall be made on or before April 1, 1994.~~]

(vi) The owner or operator, or other person authorized to conduct cleanup and closure activities may request reimbursement

from the trustee for cleanup and closure completed when approved in writing by the ~~[Executive Secretary]~~ Director.

(vii) The request for reimbursement may be granted by the trustee as follows:

(A) only if sufficient funds exist to cover the reimbursement request; and

(B) if justification and documentation of the cleanup and closure expenditures are submitted to and approved by the ~~[Executive Secretary]~~ Director in writing prior to the trustee granting reimbursement.

(viii) The ~~[Executive Secretary]~~ Director may cancel the incremental trust funding option at any time and require the permittee to provide either a fully funded trust or other cleanup and closure financial mechanism as provided in ~~[Section]~~ R315-15-12 under the following conditions:

(A) upon the insolvency of the permittee, or

(B) when a violation of ~~[Sections]~~ R315-15-10, 11 or 12 has been determined.

(ix) The trust agreement shall follow the wording provided by the ~~[Executive Secretary]~~ Director ~~[found]~~ as identified in [Subsection] R315-15-17.2.

(2) Surety Bond Guaranteeing Payment.

(i) The bond shall be effective ~~[as follows:]~~

~~[—(A) For a new used oil facility,]~~ before the initial receipt of used oil. ~~[; or]~~

~~[—(B) For an existing used oil facility, on or before April 1, 1994.]~~

(ii) The surety company issuing the bond shall, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury and the owner or operator shall notify the ~~[Executive Secretary]~~ Director that a copy of the bond has been placed in the operating record.

(iii) The penal sum of the bond shall be in an amount at least equal to the cleanup and closure cost estimate developed under ~~[Subsection]~~ R315-15-11.2.

(iv) Under the terms of the bond, the surety ~~[will]~~ shall become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

(v) The owner or operator shall establish a standby trust agreement at the time the bond is established.

(A) The standby trust agreement shall meet the requirements of ~~[Subsection]~~ R315-15-12.3(b)(1), except for ~~[Subsections]~~ R315-15-12.3(b)(1)(iii), (viii), and (ix) and the standby trust agreement shall follow the wording provided by the ~~[Executive~~

~~Secretary]~~Director ~~[found]~~ as identified in [Subsection] R315-15-17.14.

(B) Payment made under the terms of the bond shall be deposited by the surety directly into the standby trust agreement and payments from the standby trust fund shall be approved by the trustee with the written concurrence of the ~~[Executive Secretary]~~Director.

(vi) The surety bond shall automatically be renewed on the expiration date unless cancelled by the surety company 120 days in advance by sending both the bond applicant and the ~~[Executive Secretary]~~ Director a written cancellation notice by certified mail.

(vii) The bond applicant may terminate the bond for nonpayment of fee by providing written notice, by certified mail, to the ~~[Executive Secretary]~~Director 120 days prior to termination.

(viii) Any change to the form or content of the surety bond shall be submitted to the ~~[Executive Secretary]~~Director for approval and acceptance.

(ix) The surety bond shall follow the language provided by the ~~[Executive Secretary]~~Director found in ~~[Subsection]~~ R315-15-17.3.

(3) Letter of Credit

(i) The letter of credit shall be effective ~~[as follows:]~~
~~[(A) For a new used oil facility,]~~ before the initial receipt of used oil ~~[+ or]~~
~~[(B) For an existing used oil facility, on or before April 1, 1994.]~~

(ii) 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 state or federal agency.

(iii) The letter of credit shall be issued in an amount at least equal to the cleanup and closure cost estimate developed under ~~[Subsection]~~ R315-15-11.2.

(iv) The owner or operator shall establish a standby trust agreement at the time the letter of credit is established.

(A) The standby trust agreement shall meet the requirements of ~~[Subsection]~~ R315-15-12.3(b)(1), except for Subsections R315-15-12.3(b)(1)(iii), (viii), and (ix) and the ~~[surety bond]~~ standby trust agreement shall follow the language incorporated by reference in ~~[Subsection]~~ R315-15-17.14.

(B) Payment made under the terms of the letter of credit shall be deposited by the surety directly into the standby trust and payments from the standby trust fund shall be approved by the

trustee with the written concurrence of the [~~Executive Secretary~~]Director.

(vi) The letter of credit shall follow the wording provided by the [~~Executive Secretary~~]Director as identified [~~found~~] in [~~Subsection~~]R315-15-17.4.

(4) Insurance.

(i) The insurance shall be effective[~~as follows~~]
[~~(A) For a new used oil facility~~]before the initial receipt of used oil[~~;~~~~or~~]

[~~(B) For an existing used oil facility on or before April 1, 1994.~~]

(C) Insurance coverage period shall be the earliest date of permit issuance or a retroactive date established by the earliest period of coverage for any financial assurance mechanism.

(ii) 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 one or more states.

(iii) The insurance policy shall guarantee that funds will be available to perform the cleanup and closure activities approved by the [~~Executive Secretary~~]Director.

(iv) The policy shall guarantee that the insurer will be responsible for the paying out of funds to the owner or operator or person authorized to conduct the cleanup and closure activities, as approved by the [~~Executive Secretary~~]Director, up to an amount equal to the face amount of the policy. Payment of any funds by the insurer shall be made with the written concurrence of the [~~Executive Secretary~~]Director.

(A) The Insurer shall establish at a standby trust agreement for only the benefit of the [~~Executive Secretary~~]Director when the [~~Executive Secretary~~]Director notifies the Insurer that the [~~Executive Secretary~~]Director is making a claim, as provided for in [~~Rule~~]R315-15, for cleanup and closure of a permitted used oil transfer, processor, re-refiner, or off-specification burner facility.

(B) The Insurer shall place the face value of the applicable coverage in the trust within [~~thirty~~+]30[+] days of establishing the standby trust agreement.

(C) The standby trust agreement shall meet the requirements of [~~Subsection~~]R315-15-12.3(b)(1), except for [~~Subsections~~]R315-15-12.3(b)(1)(iii), (iv), (v), (viii), and (xi), and the standby trust agreement shall follow the language provided by the [~~Executive Secretary~~]Director incorporated by reference in [~~Subsection~~]R315-15-17.14.

(v) The insurance policy shall be issued for a face amount at least equal to the cleanup and closure cost estimate developed

under [~~Subsection~~]R315-15-11.2.

(vi) An owner or operator, or other [~~authorized~~]person authorized by the Director, may receive reimbursements for cleanup and closure activities completed if:

(A) the value of the policy is sufficient to cover the reimbursement request; and

(B) justification and documentation of the cleanup and closure expenditures are submitted to and approved by the [~~Executive Secretary~~]Director, prior to receiving reimbursement.

(vii) Each policy shall contain a provision allowing assignment of the policy to a successor owner or operator.

(viii) The insurance policy shall provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. If there is a failure to pay the premium, the insurer may cancel the policy by sending notice of cancellation by certified mail to the owner or operator and the [~~Executive Secretary~~]Director 120 days in advance of cancellation. If the insurer cancels the policy, the owner or operator shall obtain an alternate financial assurance mechanism meeting the requirements for financial responsibility under [~~Section~~]R315-15-10 and of this subsection within 60 days of notice of cancellation of the policy.

(ix) The policy coverage amount for cleanup and closure is exclusive of legal and defense costs.

(x) Bankruptcy or insolvency of the Insured shall not relieve the Insurer of its obligations under the policy.

(xi) The Insurer as first-payer is liable for the payment of amounts within any deductible, retention, self-insured retention (SIR), or reserve 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, retention, self-insured retention, or reserve for which coverage is otherwise demonstrated as specified in [~~Section~~]R315-15-12.

(xii) Whenever requested by the [~~Executive Secretary~~]Director, the Insurer agrees to furnish to the [~~Executive Secretary~~]Director a signed duplicate original of the policy and all endorsements.

(xiii) Cancellation of the policy, 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 used oil management facility, will be effective only upon written notice and only after the expiration of 120 days after a copy of such written notice is received by the [~~Executive~~

~~Secretary~~] Director for those facilities [~~which~~] that are located in Utah.

(xiv) Any other termination of the policy will be effective only upon written notice and only after the expiration of 120 days after a copy of such written notice is received by the [~~Executive Secretary~~] Director for those facilities [~~which~~] that are located in Utah.

(xv) All policy provisions related to [~~Rule~~] R315-15 shall be construed [~~pursuant~~] in accordance with [~~to~~] the laws of the State of Utah. In the event of the failure of the Insurer to pay any amount claimed to be due hereunder, the Insurer and the Insured will submit to the jurisdiction of the appropriate court of the State of Utah, and will comply with all the requirements necessary to give such court jurisdiction. All matters arising hereunder, including questions related to the interpretation, performance and enforcement of this policy, shall be determined in accordance with the law and practice of the State of Utah (notwithstanding Utah conflicts of law rules).

(xvi) Endorsement(s) added to, or removed from the policy that have the effect of affecting the environmental pollution liability language, directly or indirectly, shall be approved in writing by the [~~Executive Secretary~~] Director before said endorsement(s) become effective.

(xvii) Neither the Insurer nor the Insured shall contest the state of Utah's use of the drafting history of the insurance policy in a judicial interpretation of the policy or endorsement(s) to said policy.

(xviii) The Insurer shall establish a standby trust fund for the benefit of the [~~Executive Secretary~~] Director at the time the [~~Executive Secretary~~] Director first makes a claim against the insurance policy.

(A) The standby trust fund shall meet the requirements of [~~Subsection~~] R315-15-12.3(b)(1), except for item [~~Subsections~~] R315-15-12.3(b)(1)(iii), (iv), (v), (viii), and (ix) and the standby trust agreement shall follow the wording found in [~~Subsection~~] R315-15-17.14.

(B) Payment made under the terms of the insurance policy shall be deposited by the Insurer as grantor directly into the standby trust fund and payments from the trust fund shall be approved by the trustee with the written concurrence of the [~~Executive Secretary~~] Director.

(5) The owner or operator of an existing or new used oil facility may establish a financial assurance mechanism by a combination of the above mechanisms as approved by the [~~Executive Secretary~~] Director.

(c) The owner or operator of an existing or new used oil facility or operation shall establish a financial assurance mechanism for bodily injury and property damage to third parties resulting from sudden and/or non-sudden accidental releases of used oil from a permitted used oil facility or operation as follows:

(1) An owner or operator that is a used oil processor, transfer facility, or off-specification burner, or a group of such facilities regulated under ~~[Rule—]~~R315-15 shall demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden and/or non-sudden accidental release of used oil arising from operations or operations of the facility or group of facilities shall have and maintain liability coverage in the amount as specified in ~~[Subsection—]~~R315-15-10(b). This liability coverage shall be demonstrated by one or more of the financial mechanisms in ~~[Subsection—]~~R315-15-12.3(c)(3).

(2) An owner or operator that is a used oil transporter regulated under ~~[Rule—]~~R315-15, must demonstrate financial responsibility for bodily injury and property damage to third-parties resulting from sudden release of used oil arising from transit, loading and unloading, to or from facilities within Utah. The owner or operator shall maintain liability coverage for sudden accidental occurrences in the amount specified in ~~[Subsection—]~~R315-15-10(c). This liability coverage shall be demonstrated by one or more of the financial mechanisms in ~~[Subsection—]~~R315-15-12.3(c)(3).

(3) The owner or operator ~~[using insurance to—]~~shall demonstrate compliance with ~~[Subsection—]~~R315-15-10(b) or (c) ~~[shall use]~~by using one or more of the following financial assurance mechanisms:

(i) Insurance. The owner or operator shall follow the wording provided by the ~~[Executive Secretary—]~~Director ~~[found]~~identified in ~~[Subsections—]~~R315-15-17.5 through R315-15-17.9, as may be applicable.

(ii) Trust. The owner or operator shall follow the wording provided by the ~~[Executive Secretary—]~~Director ~~[found]~~identified in ~~[Subsection—]~~R315-15-17.12.

(iii) Surety Bond. The owner or operator shall follow the wording provided by the ~~[Executive Secretary—]~~Director ~~[found]~~identified in ~~[Subsection—]~~R315-15-17.11.

(iv) Letter of Credit. The owner or operator shall follow the wording provided by the ~~[Executive Secretary—]~~Director ~~[found]~~identified in ~~[Subsection—]~~R315-15-17.10.

(d) Adjustments by the ~~[Executive Secretary]~~Director. If the ~~[Executive Secretary—]~~Director determines that the levels of

financial responsibility required by [~~Subsection~~]R315-15-10(b) or (c), as applicable are not consistent with the degree and duration of risk associated with used oil operations or facilities, the [~~Executive Secretary~~]Director may adjust the level of financial responsibility required under [~~Subsection~~]R315-15-10(b) or (c), as applicable, as may be necessary to protect human health and the environment. This adjusted level will be based on the [~~Executive Secretary's~~]Director's assessment of the degree and duration of risk associated with the used oil operations or facilities. In addition, if the [~~Executive Secretary~~]Director determines that there is a significant risk to human health and the environment from non-sudden release of used oil resulting from the used oil operations or facilities, the [~~Executive Secretary~~]Director may require that an owner or operator of the used oil facility or operation comply with [~~Subsection~~]R315-15-10(b) and (c), as applicable. An owner or operator must furnish, within a reasonable time to the [~~Executive Secretary~~]Director when requested in writing, any information [~~which~~]the [~~Executive Secretary~~]Director requests to determine whether cause exists for an adjustment to the financial responsibility under [~~Subsection~~]R315-15-10(b) or (c) with the used oil operations or facilities. Failure to provide the requested information as and when requested under this section may result in the [~~Executive Secretary~~]Director revoking the owner's or operator's used oil permit(s). Any adjustment of the level or type of coverage for a facility that has a permit will be treated as a permit modification.

(e) When the owner or operator of a permitted used oil facility or operation believes that its responsibility for cleanup and closure or for environmental pollution liability as described in [~~Subsection~~]R315-15-10(d) has changed, it may submit a written request to the [~~Executive Secretary~~]Director to modify its permit to reflect the changed responsibility.

(f) The [~~Executive Secretary~~]Director may release the requirement for cleanup and closure financial assurance after the owner or operator has clean-closed the facility according to [~~Section~~]R315-15-11.

(g) The owner or operator of a permitted used oil facility or operation may request the [~~Executive Secretary~~]Director to modify its permit to change its financial assurance mechanism or mechanisms as described in [~~Section~~]R315-15-12.

(h) The [~~Executive Secretary~~]Director may modify the permit to change financial assurance mechanism or mechanisms after the owner or operator has established a replacement financial assurance mechanism or mechanisms acceptable to the [~~Executive Secretary~~]Director.

(i) Incapacity of owners or operators, guarantor, or financial institution. An owner or operator of a permitted used oil facility or operation shall notify the ~~[Executive Secretary]~~ Director by certified mail within ~~[10]~~ten days of the commencement of a bankruptcy proceeding naming the owner or operator as debtor.

(1) An owner or operator who fulfills the financial responsibility requirements by obtaining a trust fund, surety bond, letter of credit, or insurance policy will be considered to be without the required financial responsibility or liability coverage in the event of:

(i) bankruptcy of the trustee or issuing institution; or

(ii) a suspension or revocation of the authority of the trustee institution to act as trustee; or

(iii) a suspension or revocation of the authority of the institution to issue a surety bond, a letter of credit, or an insurance policy.

(2) The owner or operator of a permitted used oil facility or operation must establish other financial responsibility or liability coverage within 60 days after such an event.

12.4 ANNUAL UPDATE OF CLOSURE COST ESTIMATE AND FINANCIAL ASSURANCE MECHANISM

(a) The financial responsibility information required by ~~[Sections]~~R315-15-10, 11, and 12 and submitted to the ~~[Executive Secretary]~~Director with the initial permit application for a used oil facility or operation, or information provided as part of subsequent modifications to the permit made thereafter, shall be updated annually.

(b) The following annual updated financial responsibility information for the previous calendar year shall be submitted to the ~~[Executive Secretary]~~Director by March 1 of each year for each permitted facility or operation:

(1) The cleanup and closure cost estimate shall be based on a third party performing cleanup and closure of the facility to a post-operational land use in accordance with ~~[Subsection]~~R315-15-11.1.

(2) The financial assurance mechanism shall be adjusted to reflect the new cleanup and closure cost estimate.

(3) The type of financial assurance mechanism, its current face value, and corresponding financial institution's instrument control number shall be provided.

(4) The type of environmental pollution liability financial responsibility for third-party damage mechanism shall be provided, including:

(i) policy number or other mechanism control number,

(ii) effective date of policy or other mechanism, and

- (iii) coverage types and amounts.
- (5) The type of general liability insurance information shall be provided, including:
 - (i) policy number,
 - (ii) date of policy, effective date of policy, retroactive date of coverage, if applicable, and
 - (iii) coverage types and amounts.
- (c) Other type of information deemed necessary to evaluate compliance with a permitted used oil facilities or operations and [~~Sections~~]R315-15-10, 11, and 12, shall be provided upon request by the [~~Executive Secretary~~]Director.

R315-15-13. Registration and Permitting of Used Oil Handlers.

13.1 DO-IT-YOURSELFER USED OIL COLLECTION CENTERS TYPES A AND B

(a) Applicability. A person may not operate a do-it-yourselfer (DIYer) Type A or B used oil collection center without holding a registration number issued by the [~~Executive Secretary~~]Director.

(b) General. The application for a registration number shall include the following information regarding the DIYer used oil collection center:

- (1) the name and address of the operator;
- (2) the location of the center;
- (3) the type of storage and secondary containment to be used;
- (4) the status of the business, zoning, or other licenses and permits if required by federal, state and local governmental entities;
- (5) a spill containment plan in the event of a release of used oil; and
- (6) proof of insurance or other means of financial responsibility for liabilities that may be incurred in collecting or storing used oil.

(c) Waiver of proof of insurance or other means of financial responsibility for liabilities that may be incurred in collecting or storing used oil. In accordance with Utah Annotated[~~Pursuant to Section~~]19-6-710, the [~~Executive Secretary~~]Director may waive the requirement of proof of liability insurance or other means of financial responsibility if the following criteria are satisfied:

- (1) The used oil storage tank or container is in good condition with no severe rusting, apparent structural defects or deterioration, and no visible leaks;
- (2) There is adequate secondary containment for the tank or container that is impervious to used oil to prevent any used oil

released into the secondary containment system from migrating out of the system to the soil, groundwater or surface water;

(3) The storage tank or container is clearly labeled with the words "Used Oil;"

(4) DIYer log entries are complete including the name and address of the generator, date and quantity of used oil received;

(5) EPA[-]-approved test kits for total halogens are readily available and operators are trained to perform halogen tests on any used oil received that may have been mixed with hazardous waste; and

(6) Oil sorbent material is readily available on site for immediate clean[-]-up of spills.

(d) Changes in information. The owner or operator of the facility shall notify the [~~Executive Secretary~~] Director in writing of any changes in the information submitted to apply for a registration number within 20 days of the change.

13.2 GENERATOR USED OIL COLLECTION CENTERS TYPES C AND D

(a) Applicability. A person may not operate a generator used oil collection center Type C or D without holding a registration number issued by the [~~Executive Secretary~~] Director.

(b) General. The application for registration shall include the following information regarding the generator used oil collection center:

(1) the name and address of the operator;

(2) the location of the center;

(3) whether the center will accept DIYer used oil;

(4) the type of storage and secondary containment to be used;

(5) the status of the business, zoning, or other licenses and permits if required by federal, state and local governmental entities;

(6) a spill containment plan in the event of a release of used oil; and

(7) proof of insurance or other means of financial responsibility for liabilities that may be incurred in collecting or storing used oil.

(c) [p] Permit. Waiver of proof of insurance or other means of financial responsibility for liabilities that may be incurred in collecting or storing used oil. [~~Pursuant to Section~~] In accordance with Utah Code Annotated 19-6-710, the [~~Executive Secretary~~] Director may waive the requirement of proof of liability insurance or other means of financial responsibility if the following criteria are satisfied:

(1) The used oil storage tank or container is in good condition with no severe rusting, apparent structural defects or

deterioration, and no visible leaks;

(2) There is adequate secondary containment for the tank or container that is impervious to used oil to prevent any used oil released into the secondary containment system from migrating out of the system to the soil, groundwater or surface water;

(3) The storage tank or container is clearly labeled with the words "Used Oil;"

(4) DIYer log entries are complete including the name and address of the generator, date and quantity of used oil received;

(5) EPA[-]-approved test kits for total halogens are readily available and operators are trained to perform halogen tests on any used oil received that may have been mixed with hazardous waste; and

(6) Oil sorbent material is readily available on site for immediate clean up of spills.

(d) Changes in information. The owner or operator of the facility shall notify the [~~Executive Secretary~~] Director in writing of any changes in the information submitted to apply for a registration number within 20 days of the change.

13.3 USED OIL AGGREGATION POINTS

(a) Applicability. A person may operate a used oil aggregation point without holding a registration number issued by the [~~Executive Secretary~~] Director [~~unless~~] if that aggregation point also accepts used oil from household do-it-yourselfers (DIYers) or other generators.

(b) If an aggregation point accepts used oil from household DIYers, it must register with the [~~Division~~] Director as a DIYer collection center and comply with the DIYer standards in Section R315-15-3.1.

(c) If an aggregation point accepts used oil from other generators it must register with the [~~Division~~] Director as a generator collection center and comply with the standards in [~~Section~~] R315-15-3.2.

13.4 USED OIL TRANSPORTERS AND USED OIL TRANSFER FACILITIES

(a) Applicability. Except as provided by [~~Section~~] R315-15-13.4(f), a person may not operate as a used oil transporter [~~or operate a transfer facility~~] without holding a used oil transporter permit issued by the [~~Executive Secretary~~] Director. A person shall not operate a used oil transfer facility without holding a used oil transfer facility permit specific to that facility, issued by the Director.

(b) General. The application for a permit shall include the following information:

(1) The name and address of the operator;

(2) The location of the transporter's base of operations and

the location of any transfer facilities, if applicable;

(3) Maps of all transfer facilities, if applicable;

(4) The methods to be used for collecting, storing, and delivering used oil;

(5) The methods to be used to determine if used oil received by the transporter or facility is on-specification or off-specification and how the transporter will comply with the rebuttable requirements of R315-15-4.5;

(6) The type of containment and the volume, including type and number of storage vessels to be used and the number and type of transportation vehicles, if applicable;

(7) The methods of disposing of any waste by-products;

(8) The status of business, zoning, and other applicable licenses and permits if required by federal, state, and local government entities;

(9) An emergency spill containment plan, including a list of spill containment equipment to be carried in vehicles used to transport used oil and spill containment equipment maintained at the used oil transfer facility, and how the transporter shall comply with the requirements of R315-15-9;

(10) Proof of liability insurance or other means of financial responsibility for liabilities that may be incurred in collecting, transporting, or storing used oil;

(11) Proof of form and amount of reclamation surety for any facility used in conjunction with transportation or storage of used oil; ~~and~~

(12) A closure plan meeting the requirements of ~~[Section R315-15-11; [-]~~

(13) Proof of applicant's ownership of any property and facility used for storage of used oil or, if the property and facility is not owned by the applicant, the owners' written statement acknowledging the activities specified in the application;

(14) For transfer facility permit applications, tank certification in accordance with R315-8-10 for used oil storage tanks at the transfer facility;

(15) For transfer facility permit applications, a facility piping and instrument drawing certified by a Professional Engineer;

(16) If rail transport is part of the application, a loading/off-loading plan for rail tanker cars used to transport used oil. This plan shall include detailed procedures to be followed to minimize the potential for releases and on-site accidents. At a minimum, the following items shall be addressed:

(i) Personal safety equipment;

(ii) Coordination with railroad to ensure exclusive rights to the loading track during the entire period of loading/offloading;

(iii) A minimum number and qualification of workers involved in the loading or off-loading operations;

(iv) Braking and blocking of rail car wheels;

(v) Procedures for Depressurizing tank car prior to opening manhole covers and outlet valves;

(vi) The sequence of valve openings and closings on any hosing or piping involved in the loading or off-loading process,

(vii) A description of how and where pipe and hose fitting will be attached, including a description of which rail car valves/openings will be used;

(viii) Use of catchment container to collect any used oil released from hoses, valves, and pipes during and following the loading/offloading operation;

(ix) Measures to insure ignition sources are not present;

(x) Procedures for cleanup of any spills that occur during the loading/offloading operations; and

(xi) Other site-specific requirements required by the Director to protect human health and the environment.

(c) Permit fees. Registration and permitting fees are established under the terms and conditions of [~~Section~~]Utah Code Annotated 63J-1-~~[303]~~504. A copy of the Division's Fee Schedule is available upon request. Payment of appropriate fees is required prior to issuance of [~~registration numbers and~~]permit approvals and annual used oil handler certificates.

(d) Annual Reporting. Each transporter~~[+]~~ and transfer facility shall submit an annual report to the [~~Division~~]Director of [~~their~~]its activities during the calendar year. The annual report shall be submitted to the [~~Division~~]Director no later than March 1, of the year following the reported activities. The Annual report shall either be submitted on a form provided by the [~~Division~~]Director or shall contain the following information:

(1) the EPA identification number, name, and address of the transporter/transfer facility;

(2) the calendar year covered by the report;

(3) the total amount of used oil transported;

(4) the itemized amounts and types of used oil transferred to permitted transporters~~[+]~~ and transfer facilities, used oil processors/re-refiners, off-specification used oil burners, and used oil fuel marketers; and

(5) the itemized amounts and types of used oil transferred inside and outside the state, indicating the state [~~of~~]to which used oil is transferred, and the specific name, address and

telephone number of the operations or facility to which used oil was transferred.

(e) Changes in information. The owner or operator of the facility shall notify the ~~[Executive Secretary]~~ Director in writing of any changes in the information submitted to apply for a permit within 20 days of the change.

(f) Transporter and Transfer Facility Permit[s] by rule. Notwithstanding any other provisions of ~~[Section]~~ R315-15-13.4, a used oil generator who self-transports used oil generated by that generator at a non-contiguous operation to a central collection facility in the generator's own service vehicles in quantities exceeding 55 gallons ~~[for the purpose of storing it]~~ shall be deemed to have an approved used oil transporter permit or used oil transfer facility permits, or both if the generator meets all ~~[of the following conditions:]~~ applicable requirements of R315-15-13.4(f)(1) through (4).

(1) All used oil transporters or transfer facilities who qualify for a permit by rule shall submit a notification to the Director of their intent to operate under R315-15-13.4(f) and comply with the following conditions:

(i) The generator's facility is defined under the North American Industry Classification System (NAICS), published, in 2007, by the US Economic Classification Policy Committee, with a NAICS code of 21 (Mining), 23 (Construction), or 541360 (Geophysical Surveying and Mapping Services);

(ii) The generator self-transports and delivers the used oil to facilities that the generator owns, operates, or both.

(iii) The generator notifies the Director with the information required by R315-15-13.4(b)(1) through (10); and

(iv) The generator complies with R315-15-4.3, R315-15-4.4(b) through (d), R315-15-4.6(b) through (f), R315-15-4.7(b) and (d), and R315-15-4.8.

(2) A generator who self-transports used oil in accordance with R315-15-13.4(f)(1) and who burns all the collected used oil for energy recovery is deemed to be approved by rule to operate as a used oil transporter for that activity if the following additional conditions are met:

(i) The generator only burns the self-collected used oil for energy recovery at that generator's own central collection facility.

(ii) The generator registers as a used oil fuel marketer in accordance with R315-15-13.7 and complies with R315-15-7.

(3) A generator who self-transports used oil in accordance with R315-15-13.4(f)(1) and only stores the used oil for subsequent collection by permitted used oil transporters is

deemed to be approved by rule to operate as a used oil transporter and transfer facility for that activity if the following additional conditions are met:

(i) The generator arranges for permitted used oil transporters to collect the generator's used oil.

(ii) The self-transported used oil is not stored at the generator's facility longer than 35 days. If the self-transported used oil is stored longer than 35 days, the generator becomes a used oil processor in accordance with R315-15-4.6(a) and shall obtain a used oil processor permit in accordance with R315-15-13.5.

(4) A generator who self-transported used oil in accordance with R315-15-13.4(f)(1), and who both burns their collected used oil for energy recovery and arranges for permitted use oil transporters to collect that used oil, is deemed to be approved by rule to operate as a used oil transporter and transfer facility for that activity if the following additional conditions are met:

(i) The self-transported used oil burned for energy recovery is only burned at the generator's central collection facility;

(ii) The generator registers as a used oil fuel marketer in accordance with R315-15-13.7 and complies with R315-15-7; and

(iii) The generator arranges for permitted used oil transporters to collect the generator's used oil not burned on site.

(iv) The self-transported used oil is not stored at the generator's facility longer than 35 days. If the self-transported used oil is stored longer than 35 days, the generator becomes a used oil processor in accordance with R315-15-4.6(a) and shall obtain a used oil processor permit in accordance with R315-15-13.5.

(g) All used oil transporters and transfer facilities shall obtain and maintain a used oil handler certificates in accordance with R315-15-13.8.

~~[(1) Transports only used oil generated by the generator;~~

~~— (2) Transports the used oil in a service vehicle owned by the generator;~~

~~— (3) Transports the used oil to a facility that the generator owns, operates, or both;~~

~~— (4) Subsequently burns the stored used oil for energy recovery at that facility, or arranges for a permitted used oil transporter to pick up the used oil;~~

~~— (5) Complies with Sections R315-15-4.3, R315-15-4.4, and R315-15-4.8, and Subsections R315-15-4.6(b) through (f) and R315-~~

~~15-4.7(b) and (d);~~

~~(6) Notifies the Executive Secretary with the information required by Subsection R315-15-13.4(b)(6);~~

~~(7) Registers as a used oil fuel marketer and complies with Section R315-15-7; and~~

~~(8) Is defined by one of the following Standard Industrial Classification (SIC) codes found in the Standard Industrial Classification Manual, 1987, published by the US Office of Management and Budget:~~

~~(i) 10 (metal mining);~~

~~(ii) 12 (coal mining);~~

~~(iii) 13 (oil and gas extraction);~~

~~(iv) 14 (mining and quarrying of nonmetallic minerals, except fuels;~~

~~(v) 15 (building construction--general contractors and operative builders);~~

~~(vi) 16 (heavy construction other than building construction);~~

~~(vii) 1791 (miscellaneous special trade contractors);~~

~~(viii) 1794 (excavation work); and~~

~~(ix) 1795 (wrecking and demolition work).]~~

13.5 USED OIL PROCESSORS/RE-REFINERS

(a) Applicability. A person may not operate as a used oil processing/re-refining facility without holding a permit issued by the [~~Executive Secretary~~]Director.

(b) General. The application for a permit shall include the following information:

(1) The name and address of the operator;

(2) The location of the facility;

(3) A map of the facility;

(4) The grades of oil to be produced;

(5) The methods to be used to determine if used oil received by the transporter or facility is on-specification or off-specification;

(6) The type of containment and the volume, including type and number of storage vessels to be used and the number and type of transportation vehicles, if applicable;

(7) The methods of disposing of any waste by-products;

(8) The status of business, zoning, and other applicable licenses and permits if required by federal, state, and local government entities;

(9) An emergency spill containment plan, including a list of spill containment equipment to be maintained at the used oil processor facility;

(10) Proof of liability insurance or other means of

financial responsibility for liabilities that may be incurred in processing or rerefining used oil;

(11) Proof of form and amount of reclamation surety for any facility used in conjunction with transportation or storage of used oil;~~and~~

(12) Any other information the Director finds necessary to ensure the safe handling of used oil;

(1~~2~~3) A closure plan meeting the requirements of [Section]R315-15-11.

(14) A contingency plan meeting the requirements of R315-15-5.3(b);

(15) Proof of applicant's ownership of the property and facility or, if the property and facility is not owned by the applicant, the owner's written statement acknowledging the activities specified in the application;

(16) Tank certification in accordance with R315-8-10 for used oil storage tanks at the processor facility; and

(17) A facility piping and instrument drawing certified by a Professional Engineer.

(c) Permit fees. Registration and permitting fees are established under the terms and conditions of [Section]Department fee schedule 63J-1-~~303~~504. A copy of the Division's Fee Schedule is available upon request. Payment of appropriate fees is required prior to issuance of [registration numbers and]permit approvals and annual used oil handler certificates.

(d) Annual Reporting. Each used oil processing or rerefining facility shall submit an annual report to the [Division]Director of [their]its activities during the calendar year. The annual report shall be submitted to the [Division]Director no later than March 1~~[7]~~ of the year following the reported activities. The annual report shall either be submitted on a form provided by the [Division]Director or shall contain the following information:

(1) the EPA identification number, name, and address of the processor/re-refiner facility;

(2) the calendar year covered by the report;

(3) the quantities of used oil accepted for processing/rerefining and the manner in which the used oil is processed/rerefined, including the specific processes employed;

(4) the average daily quantities of used oil processed at the beginning and end of the reporting period;

(5) an itemization of the total amounts of used oil processed or rerefined during the reporting period year specifying the type and amounts of products produced, i.e., lubricating oil, fuel oil, etc.; and

(6) the amounts of used oil prepared for reuse as a lubricating oil, as a fuel, and for other uses, specifying each type of use, the amounts of used oil consumed or used in the process of preparing used oil for reuse, specifying the amounts and types of waste by-products generated including waste, water, and the methods and specific locations utilized for disposal.

(e) Changes in information. The owner or operator of the facility shall notify the ~~[Executive Secretary]~~Director in writing of any changes in the information submitted to apply for a permit within 20 days of the change.

(f) Used oil processors and re-refiners shall obtain and maintain a current used oil handler certificate in accordance with R315-15-13.8.

13.6 USED OIL BURNERS

(a) ~~On-s~~^specification used oil fuel burners. Facilities burning only on-specification used oil fuel are not required to register as used oil burners with the ~~[Executive Secretary]~~Director~~[-]~~

~~[(1) Applicability. These requirements apply to persons burning only used oil that meets the used oil fuel specification of Section R315 15 1.2, provided that the burner also complies with the requirements of Section R315 15 7.3. Persons burning specification used oil fuel shall be considered to have an authorization from the Department,] for the purpose of [this section]R315-15-13.6, if they hold a valid air quality operating order[,]~~ or are exempt under ~~[Section]~~R315-15-2.4.

~~[(2) Notification. Specification used oil fuel burners are required to notify the Executive Secretary by submitting a letter that includes the following information:~~

~~— (i) Company name and location;~~

~~— (ii) Owner of the company; and~~

~~— (iii) Name and telephone number for the company point of contact.]~~

(b) Off-specification used oil fuel burners

(1) Applicability. The permitting requirements of this section apply to used oil burners who burn off-specification used oil for energy recovery except as specified in ~~[Subsections]~~R315-15-6.1(a)(1) through (3). A person may not burn off-specification used oil fuel for energy recovery without holding a permit issued by the ~~[Executive Secretary]~~Director.

(2) Permit application. The application for a permit shall include the following information regarding the facility:

(i) ~~[t]~~The name and address of the operator;

(ii) ~~[t]~~The location of the facility;

(iii) ~~[t]~~The type of containment and type and capacity of

storage;

(iv) ~~[(t)]~~ The type of burner to be used;

(v) ~~[(t)]~~ The methods of disposing of any waste by-products;

(vi) ~~[(t)]~~ The status of business, zoning, and other applicable licenses and permits required by federal, state, and local governmental entities;

(vii) ~~[(a)]~~ An emergency spill containment plan; including a list of spill containment equipment to be maintained at the used oil processor facility.

(viii) ~~[(p)]~~ Proof of insurance or other means of financial responsibility for liabilities that may be incurred in storing and burning off-specification used oil fuels.

(ix) ~~[(p)]~~ Proof of form and amount of reclamation surety for any facility receiving and burning off-specification used oil.

(x) A closure plan meeting the requirements of ~~[Section~~ R315-15-11;~~]-~~

(xi) Proof of applicant's ownership of the property and facility or, if the property and facility is not owned by the applicant, the owner's written statement acknowledging the activities specified in the application;

(xii) Tank certification in accordance with R315-8-10 for used oil storage tanks at the processor facility; and

(xiii) A facility piping and instrument drawing certified by a Professional Engineer.

(3) Permit fees. Registration and permitting fees are established under the terms and conditions of ~~[Section-]~~Utah Code Annotated 63J-1-~~[303]~~504. A copy of the Division's Fee Schedule is available upon request. Payment of appropriate fees is required prior to issuance of ~~[registration numbers or-]~~permit approvals and annual used oil handler certificates.

(4) Changes in information. The owner or operator of the facility shall notify the ~~[Executive Secretary-]~~Director in writing of any changes in the information submitted during permit application within 20 days of the change.

(5) Permits by rule. Any facility permitted by rule is not required to obtain a permit as required by ~~[Subsection-]~~R315-15-13.6(b)(1), but may be required to follow operational practices, as determined by the ~~[Executive Secretary]~~Director, to minimize risk to human health or the environment. A permit by rule is conditional upon continued compliance with the requirements of R315-15-13.6(b), as determined by the ~~[Executive Secretary]~~Director. Notwithstanding any other provisions of ~~[Section-]~~R315-15-13.6, a hazardous waste incinerator facility ~~[which-]~~that has been issued a final permit under R315-3-1, and ~~[which-]~~that implements the requirements of R315-8-15, shall be

deemed to have an approved off-specification used oil burner permit if that facility meets all of the following conditions:

(i) ~~[Burns—]~~It burns off-specification used oil only in devices specified in R315-15-6.2(a);

(ii) ~~[Stores—]~~It stores used oil in the manner described in R315-15-6.5;

(iii) ~~[Tracks—]~~It tracks off-specification used oil shipments as described in R315-15-6.6;

(iv) ~~[Complies—]~~It complies with ~~[Sections—]~~R315-15-6.3 and R315-15-6.7;

(v) It ~~[M]~~modifies its closure plan required under ~~[Section]~~R315-8-7 (Closure and Post Closure), to include used oil storage and burning devices, taking into account any used oil activities at this facility;

(vi) ~~[Modify]~~It modifies its financial mechanism or mechanisms required under ~~[Section—]~~R315-8-8 (Financial Requirements), using a mechanism other than a corporate financial test/corporate written guarantee, to reflect the used oil activities at the facility; and

(vii) It ~~[S]~~submits to the ~~[Executive Secretary—]~~Director the information required by ~~[Subsection—]~~R315-15-13.6(b)(2)(i) through (vi), and a one-time declaration that the facility intends to burn off-specification used oil.

(6) Annual Reporting. Each off-specification used oil burner, including those permitted by rule under R315-15-13.6(b)(5), shall submit an annual report to the ~~[Division]~~Director of their activities during the calendar year. The annual report shall be submitted to the ~~[Division—]~~Director no later than March 1, of the year following the reported activities. The annual report shall either be submitted on a form provided by the ~~[Division—]~~Director or shall contain the following information:

(i) ~~[€]~~The EPA identification number, name, and address of the burner facility;

(ii) ~~[€]~~The calendar year covered by the report; and

(iii) ~~[€]~~The total amount of used oil burned.

(c) Off-specification used oil burners shall obtain and maintain a current used oil handler certificate in accordance with R315-15-13.8.

13.7 USED OIL FUEL MARKETERS

(a) Applicability. A person may not act as a used oil fuel marketer, as defined in ~~[Section—]~~R315-15-7, without holding a registration number issued by the ~~[Executive Secretary]~~Director.

(b) General. The application for a registration number shall include the following information regarding the facility

acting as a used oil fuel marketer:

(1) The name and address of the marketer.

(2) The location of any facilities used by the marketer to collect, transport, process, or store used oil subject to separate permits, or registrations under this section.

(3) ~~the~~ The status of business, zoning, and other applicable licenses and permits required by federal, state, and local governmental entities, including registrations or permits required under this part to collect, process/re-refine, transport, or store used oil.

(4) Sampling and Analysis Plan. Marketers shall develop and follow a written analysis plan describing the procedures that will be used to comply with the analysis requirements of R315-15, including the applicable portions of R315-15-1.2, R315-15-5.4, R315-15-7.3, and R315-15-18. The owner or operator shall keep the plan at the facility. The plan shall address at a minimum the following:

(i) Specification used oil fuel. The analysis plan shall describe how the marketer will comply with R315-15-1.2, R315-15-5.6, and R315-15-7.3, as applicable.

(ii) Analytical methods. The plan shall specify the preparation and analytical methods for each parameter.

(iii) PCBs. The analysis plan shall describe how the marketer will comply with R315-15-18.

(iv) Generator knowledge. The plan shall describe the requirements for generator knowledge, if applicable.

(v) Sample Quality Control. The plan shall specify the quality control parameters and acceptance limits.

(vi) Rebuttable presumption for used oil. The analysis plan shall describe how the marketer will comply with R315-15-1.1(b)(ii) and R315-15-5.4, if applicable.

(vii) Sampling. The analysis plan shall describe the sampling protocol used to obtain representative samples, including:

(A) Sampling methods. The marketer shall use one of the sampling methods in R315-50-6, which incorporates by reference 40 CFR 261, Appendix I; or a method shown to be equivalent under R315-2-15.

(B) Sample frequency. The plan shall specify the frequency of sampling to be performed, and whether the analysis will be performed on site or off site.

(~~4~~c) Registration fees. Registration and permitting fees are established under the terms and conditions of ~~Section~~ Utah Code Annotated 63J-1-~~303~~504. A copy of the Division's Fee Schedule is available upon request. Payment of appropriate fees

is required prior to issuance of registration numbers and annual used oil handler certificates.

(d) A person who acts as used oil fuel marketer shall annually obtain a used oil handler certificate in accordance with R315-15-13.8.

(~~5~~e) Changes in information. The owner or operator of the facility shall notify the ~~[Executive Secretary]~~ Director in writing of any changes in the information submitted to apply for a registration within 20 days of the change.

(f) A person who acts as used oil fuel marketer shall annually obtain a used oil handler certificate in accordance with R315-15-13.8. A used oil fuel marketer shall not operate without a used oil handler certificate.

13.8 USED OIL HANDLER CERTIFICATES

(a) Applicability. As well as obtaining permits and registration described in R315-15-13.4 through 13.8, a person shall not act as a used oil transporter, operator of a transfer facility, processor/re-refiner, off-specification burner, or marketer without applying for, receiving, and maintaining a current used oil handler certificate issued by the Director for each applicable activity. Each used oil permit and marketer registration described in R315-15-13.4 through 13.7 above requires a separate used oil handler certificate.

(b) General. Each application for a used oil handler certificate shall include the following information:

- (1) business name;
- (2) address to include:
 - (i) mailing address; and
 - (ii) site address if different from mailing address
- (3) telephone number
- (4) name of business owner;
- (5) name of business operator;
- (6) permit/registration number; and
- (7) type of permit/registration number (i.e., processor, transporter, transfer facility, off-specification burner, or marketer).

(c) Changes in information. A used oil handler certificate holder shall notify the Director of any changes in the information provided in Subsection R315-15-13.8(b) within 20 days of implementation of the change.

(d) A used oil handler certificate will be issued to an applicant following the:

- (1) completion and approval of the application required by R315-15-13.8(a); and
- (2) payment of the fee required by the Annual Appropriations

Act.

(e) A used oil handler certificate is not transferable and shall be valid January 1 through December 31 of the year issued. The certificate shall become void if the permit or registration associated with the used oil activity described in the certificate, in accordance with R315-15-13.8(b)(6) in the application, is revoked under R315-15-15.2 or if the Director, upon the written request of the permittee or registration holder, cancels the certificate.

(f) The certificate registration fee shall be paid prior to operation within any calendar year.

R315-15-14. DIYer Reimbursement.

14.1 DIYER USED OIL COLLECTION CENTER INCENTIVE PAYMENT APPLICABILITY

(a) The [~~Division~~] Director shall pay a quarterly recycling fee incentive to registered DIYer used oil collection centers and curbside programs approved by the [~~Executive Secretary~~] Director for each gallon of used oil collected from DIYer used oil generators [~~on and after July 1, 1994~~], and transported by a permitted used oil transporter to a permitted used oil processor/re-refiner, burner, [~~or~~] registered marketer or burned in accordance with R315-15-2.4(b).

(b) All registered DIYer used oil collection centers can qualify for a recycling incentive payment of up to \$0.16 per gallon, subject to availability of funds and the priorities of [~~Section~~] Utah Code Annotated 19-6-720.

14.2 REIMBURSEMENT PROCEDURES

In order for DIYer collection centers to qualify for the recycling incentive payment they are required to comply with the following procedures.

(a) Submit a copy of all records and receipts [~~from permitted transporters~~] of DIYer and farmer, as defined in R315-15-2.1(a)(4), used oil collected during the quarter for which the reimbursement is requested [~~, quarterly, beginning July 1, 1994 and ending September 30, 1994, and each quarter thereafter~~]. These records shall be submitted within 30 days following the end of the calendar quarter in which the DIYer oil was collected and for which reimbursement is requested.

(b) Reimbursements will be issued by the [~~Executive Secretary~~] Director within 30 days following the report [~~filling~~] filing period.

(c) Reports received later than 30 days after the end of the calendar quarter for which reimbursement is requested will be paid during the next quarterly reimbursement period.

(d) Any reimbursement requests outside the timeframe outlined in R315-15-14.2(a) will not be granted unless approved by the Director.

R315-15-15. Issuance, Renewal, and Revocation of Permits and Registrations.

15.1 PUBLIC COMMENTS AND HEARING.

(a) ~~[In considering permit applications under these Rules,~~ ~~†]The [Executive Secretary]~~Director shall:~~[— adhere to the requirements of Section 19 6 712.]~~

(1) determine if the permit application or modification request is complete and meets all requirements of R315-15-13;

(2) publish notice of the proposed permit in a newspaper of general circulation in the state and also in a newspaper of general circulation in the county in which the proposed permitted facility is located ;

(3) provide a 15-day public comment period from the date of publication to allow the public time to submit written comments;

(4) consider submitted public comments received within the comment period; and

(5) send a written decision to the applicant and to persons submitting comments,

(b) The Director's decision under R315-15-15.1(a) may be appealed in accordance with Utah Administrative Code R305-7.

(c) Duration of Permits. Used oil permits shall be effective for a fixed term not to exceed ten years. The term of a permit shall not be extended by modification to the permit.

(d) The conditions of an expired permit continue in force until the effective date of a new permit if:

(1) The permittee has submitted a timely application under R315-15-13, at least 180 days prior to the expiration date of the current permit. The permit application shall contain all the materials required by R315-15-13.

(2) The Director, through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit (for example, when issuance is impracticable due to time or resource constraints).

(e) Effect. Permits continued under this section remain fully effective and enforceable.

(f) Enforcement. When the permittee is not in compliance with the conditions of the expiring or expired permit, the Director may choose to do any or all of the following;

(1) Initiate enforcement action based upon the permit that has been continued;

(2) Issue a notice of intent to deny the new permit under

R315-15-15.2. If the permit is denied, the owner or operator is required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;

(3) Issue a new permit under R315-15-15.2 with appropriate conditions;

(4) Take other actions authorized by these rules

(g) Five-Year Review of Permit. Each used oil permit, including the costs of closure and post closure care issued under R315-15-13, shall be reviewed by the Director five years after the permit's issuance, or when the Director determines that a permit requires review and modification.

15.2 MODIFICATION AND REVOCATION OF PERMITS, [AND]REGISTRATIONS AND HANDLER CERTIFICATES.

(a) A permit may be considered for modification, renewal, or termination at the request of any interested person, including the permittee, or upon the Director's initiative as a result of new information or changes in statutes or rules. Requests for modification, reissuance, or termination shall be submitted in writing to the Director and shall contain facts or reasons supporting the request. The permit modification requests shall not be implemented until approval of the Director.

Violation of any permit[+] or registration conditions or failure to comply with any provisions of the applicable statutes and rules, shall be grounds for imposing statutory sanctions, including [revocation of the permit or registration and] denial of an application for permit, [or] registration, or used oil handler certificate. [—The Executive Secretary shall notify, in writing, the owner or operator of any facility of intent to revoke a permit or registration.]

(b) Request for agency action. The owner or operator of a facility may contest an order associated with modification, renewal, or termination in accordance with Utah Administrative Code R305-7.

R315-15-16. Grants.

16.1 STATUTORY AUTHORITY.

[Section—]Utah Code Annotated 19-6-720 authorizes the Division of Solid and Hazardous Waste to award grants, as funds are available, for the following:

(a) Used oil collection centers; and

(b) Curbside used oil collection programs, including costs of retrofitting trucks, curbside containers, and other costs of collection programs.

16.2 ELIGIBILITY AND APPLICATION.

(a) The establishment of new or the enhancement of existing used oil collection centers or curbside collection programs that address the proper management of used lubricating oil may be eligible for grant assistance.

(b) A Used Oil Recycling Block Grant Package, published by the ~~[Division]~~Director, shall be completed and submitted to the ~~[Executive Secretary]~~Director for consideration.

16.3 LIMITATIONS.

(a) The grantee must commit to perform the permitted used oil handling activity for a minimum of two years.

(b) If the two-year commitment is not fulfilled, the grantee may be required to repay all or a portion of the grant amount.

R315-15-17. Wording of Financial Assurance Mechanisms.

17.1 APPLICABILITY

~~[Section]~~R315-15-17 presents the standard wording forms to be used for the financial assurance mechanisms found in ~~[Section]~~R315-15-12. The following forms are hereby incorporated by reference and are available at the Division of Solid and Hazardous Waste located at ~~[288 North 1460 West]~~195 North 1950 West, Salt Lake City, Utah, during normal business hours or on the Division's web site, <http://www.hazardouswaste.utah.gov/>.

~~(a)[17.1.2]~~ The Division requires that the forms described in ~~[this rule]~~R315-15-17.2 through R315-15-17.14 shall be used for all financial assurance filings and shall be signed in duplicate original documents. The wording of the forms shall be identical to the wording specified in R315-15-17.2 through R315-15-17.4. ~~[Actual copies may be used or facilities may adapt them to their word processing system. If adapted, the content, size, font, and format must be similar.]~~

~~(b)[17.1.3]~~ The ~~[Executive Secretary]~~Director may substitute new wording for the wording found in any of the financial assurance mechanism forms when such language changes are necessary to conform to applicable financial industry changes, when industry-wide consensus language changes are submitted to the ~~[Executive Secretary]~~Director.

17.2 TRUST AGREEMENTS

The trust agreement for a trust fund must be worded as found in the Trust Agreement Form ~~[published January 10, 2008]~~approved by the ~~[Executive Secretary]~~Director.

17.3 SURETY BOND GUARANTEEING PAYMENT INTO A STANDBY TRUST AGREEMENT TRUST FUND

The surety bond guaranteeing payment into a standby trust agreement trust fund must be worded as found in the Surety Bond Guaranteeing Payment into a Standby Trust Agreement Trust Fund

Form [~~published January 10, 2008~~] approved by the [~~Executive Secretary~~] Director.

17.4 IRREVOCABLE STANDBY LETTER OF CREDIT WITH STANDBY TRUST AGREEMENT

The letter of credit must be worded as found in the Irrevocable Standby Letter of Credit with Standby Trust Agreement Form [~~published January 10, 2008~~] approved by the [~~Executive Secretary~~] Director.

17.5 UTAH USED OIL POLLUTION LIABILITY INSURANCE ENDORSEMENT FOR CLEANUP AND CLOSURE

The insurance endorsement of cleanup and closure must be worded as found in the Utah Used Oil Pollution Liability Insurance Endorsement for Cleanup and Closure Form [~~published January 10, 2008~~] approved by the [~~Executive Secretary~~] Director.

17.6 UTAH USED OIL TRANSPORTER POLLUTION LIABILITY ENDORSEMENT FOR SUDDEN OCCURRENCE

The used oil transporter pollution liability endorsement for sudden occurrence must be worded as found in the Utah Used Oil Transporter Pollution Liability Endorsement for Sudden Occurrence Form [~~published January 10, 2008~~] approved by the [~~Executive Secretary~~] Director.

17.7 UTAH USED OIL POLLUTION LIABILITY ENDORSEMENT FOR SUDDEN OCCURRENCE

The used oil pollution liability endorsement for sudden occurrence for permitted facilities other than permitted transporters must be worded as found in the Utah Used Oil Pollution Liability Endorsement for Sudden Occurrence Form [~~published January 10, 2008~~] approved by the [~~Executive Secretary~~] Director.

17.8 UTAH USED OIL POLLUTION LIABILITY ENDORSEMENT FOR NON-SUDDEN OCCURRENCE

The used oil pollution liability endorsement for non-sudden occurrence must be worded as found in the Utah Used Oil Pollution Liability Endorsement Non-Sudden Occurrence Form [~~published January 10, 2008~~] approved by the [~~Executive Secretary~~] Director.

17.9 UTAH USED OIL POLLUTION LIABILITY ENDORSEMENT FOR COMBINED SUDDEN AND NON-SUDDEN OCCURRENCES

The used oil pollution liability endorsement combined for sudden and non-sudden occurrence must be worded as found in the Utah Used Oil Pollution Liability Endorsement for Combined Sudden and Non-Sudden Occurrences Form [~~published January 10, 2008~~] approved by the [~~Executive Secretary~~] Director.

17.10 LETTER OF CREDIT FOR THIRD-PARTY DAMAGES FROM ENVIRONMENTAL POLLUTION LIABILITY WITH OPTIONAL STANDBY TRUST AGREEMENT TO BE USED BY TRANSFER/PROCESSOR/RE-REFINER/OFF-

SPECIFICATION BURNER FACILITY

The letter of credit must be worded as found in the Letter of Credit for Third Party Damages from Environmental Pollution Liability with Optional Standby Trust Agreement to be used by Transfer/Processor/Re-refiner/Off-specification Burner Facility Form [~~published January 10, 2008~~] approved by the [~~Executive Secretary~~] Director.

17.11 PAYMENT BOND FOR THIRD-PARTY DAMAGES FROM ENVIRONMENTAL POLLUTION LIABILITY TO BE USED BY TRANSFER/PROCESSOR/RE-REFINER/OFF-SPECIFICATION BURNER FACILITY

A surety bond must be worded as found in the Payment Bond for Third Party Damages from Environmental Pollution Liability to be used by Transfer/Processor/Re-refiner/Off-specification burner Facility Form [~~published January 10, 2008~~] approved by the [~~Executive Secretary~~] Director.

17.12 TRUST AGREEMENT FOR THIRD-PARTY DAMAGES FROM ENVIRONMENTAL POLLUTION LIABILITY TO BE USED BY TRANSFER/PROCESSOR/RE-REFINER/OFF-SPECIFICATION BURNER FACILITY

A trust agreement must be worded as found in the Trust Agreement for Third Party Damages from Environmental Pollution Liability to be used by Transfer/Processor/Re-refiner/Off-specification Burner Facility Form [~~published January 10, 2008~~] approved by the [~~Executive Secretary~~] Director.

17.13 STANDBY TRUST AGREEMENT ASSOCIATED WITH THIRD-PARTY DAMAGES FROM ENVIRONMENTAL POLLUTION LIABILITY REQUIRING A STANDBY TRUST AGREEMENT TO BE USED BY TRANSFER/PROCESSOR/RE-REFINER/OFF-SPECIFICATION BURNER FACILITY

A standby trust agreement must be worded as found in the Standby Trust Agreement Associated with Third Party Damages from Environmental Pollution Liability Requiring Standby Trust Agreement to be used by Transfer/Processor/Re-refiner/Off-specification Burner Facility Form [~~published January 10, 2008~~] approved by the [~~Executive Secretary~~] Director.

17.14 STANDBY TRUST AGREEMENT, OTHER THAN LIABILITY, FOR TRANSFER/PROCESSOR/RE-REFINER/OFF-SPECIFICATION BURNER FACILITY

The standby trust agreement for a trust fund must be worded as found in the Standby Trust Agreement, other than Liability for Transfer/Processor/Re-refiner/Off-specification Burner Facility Form [~~published January 10, 2008~~] approved by the [~~Executive Secretary~~] Director.

R315-15-18. Polychlorinated Biphenyls (PCBs).

(a) Used oil containing polychlorinated biphenyl (PCB) concentrations of 50 ppm and above is subject to TSCA regulations in 40 CFR 761. Used oil containing PCB concentrations greater

than or equal to 2 ppm but less than 50 ppm is subject to both R315-15 and 40 CFR 761.

(b) Used oil transporter PCB testing. Used oil transporters shall determine whether the PCB content of used oil being transported is less than 2 ppm prior to transferring the oil into the transporter's vehicles. The transporter shall make this determination as follows:

(1) Used dielectric oil. Dielectric oil used in transformers and other high voltage devices shall be certified to be less than 2 ppm prior to loading to the transporter's vehicle through either:

(A) Laboratory testing following the procedures described in R315-15-18(d) below, or

(B) Written certification from the generator that the PCB content of the used oil is less than 2 ppm PCBs based on manufacturing specifications and process knowledge.

(2) Other used oils historically containing PCBs. Used oils that have historically contained PCBs, including high pressure hydraulic oils, capacitors, heat transfer fluids, oil cooled electric motors, and lubricants shall be certified to be less than 2 ppm prior to transfer through either:

(A) Laboratory testing following the procedures described in R315-15-18(d) below, or

(B) Written certification from the generator that the PCB content of the used oil is less than 2 ppm PCBs based on manufacturing specifications and process knowledge.

(3) Suspicious oil. If a transporter suspects or has knowledge that used oil may have an increased likelihood of containing PCBs, the used oil transporter shall make a PCB determination in the same manner as described under (1) above.

(4) Used oils not falling into categories described under (1) to (3) above are not required to be tested for PCBs under R315-15-18(b).

(c) Used oil marketer PCB testing. To ensure that used oil destined for burning is not a regulated waste under the TSCA regulations, used oil fuel marketers shall also determine whether the PCB content of used oil being burned for energy recovery is below 2 ppm. A marketer shall make this determination in a manner consistent with the used oil marketer's sampling and analysis plan.

(d) Laboratory testing for PCBs. Used oil testing for total PCBs shall include the following Aroclors®: 1016, 1221, 1232, 1242, 1248, 1254, and 1260. If plasticizers (used in polyvinyl chloride plastic, neoprene, chlorinated rubbers, laminating adhesives, sealants and caulk and joint compounds etc.) are

present, then the used oil shall also be analyzed for Aroclors® 1262 and 1268. If other Aroclors® are known or suspected to be present, then the used oil shall be analyzed for those additional Aroclors®.

(e) The following Utah Certified Laboratory SW-846 methodologies shall be used:

(1) Preparation method 3580A, clean up method 3665A, and analytical method 8082A.

(2) Individual Aroclors® shall be reported with a reporting limit of 0.5 ppm or less.

(3) If the source of the PCBs is known to be an Aroclor®, and the Aroclor® is unlikely to be significantly altered in homologue composition such as weathering, Aroclors® listed in R315-15-18(d) shall be reported. Analytical results from all 209 individual congeners or ten homologue groups shall be submitted for any sample that has an altered homologue composition such as weathering unless prior approval is obtained from the Director.

KEY: hazardous waste, used oil

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