

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
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Nancy L. Lancaster, Managing Editor

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

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

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

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

Office of Administrative Rules, Salt Lake City 84114

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## NOTICES OF PROPOSED RULES

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A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between July 02, 2025, 12:00 a.m., and July 15, 2025, 11:59 p.m. are included in this, the August 01, 2025, issue of the *Utah State Bulletin*.

In this publication, each **PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **PROPOSED RULE** is usually printed. New rules or additions made to existing rules are underlined (example). Deletions made to existing rules are struck out with brackets surrounding them (~~example~~). Rules being repealed are completely struck out. A row of dots in the text between paragraphs (. . . . .) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not usually printed. If a **PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of each rule that is too long to print is available from the filing agency or from the Office of Administrative Rules.

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least September 03, 2025. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through November 29, 2025, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

The public, interest groups, and governmental agencies are invited to review and comment on **PROPOSED RULES**. *Comment may be directed to the contact person identified on the **RULE ANALYSIS** for each rule.*

**PROPOSED RULES** are governed by Section 63G-3-301, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5a, R15-4-9, and R15-4-10.

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**The Proposed Rules Begin on the Following Page**

**NOTICE OF SUBSTANTIVE CHANGE****TYPE OF FILING:** Repeal and Reenact**Rule or section number:****R23-3****Filing ID:** 57321**Agency Information**

<b>1. Title catchline:</b>	Government Operations, Facilities Construction and Management	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S. 2700 W., 3 <sup>rd</sup> Floor	
<b>City, state:</b>	Taylorsville, UT	
<b>Mailing address:</b>	P.O. Box 141160	
<b>City, state and zip:</b>	Salt Lake City, UT 84129-2128	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Mike Kelley	801-957-7239	mkelley@agutah.gov
Darrell Hunting	801-244-3516	dhunting@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

**General Information**

<b>2. Rule or section catchline:</b>
R23-3. Planning, Programming, Request for Capital Development Projects and Operation and Maintenance Reporting for State Owned Facilities
<b>4. Purpose of the new rule or reason for the change:</b>
The rule has not been substantively updated in over ten years and needs to be updated to account for advances in building operation and maintenance technology and practices.
<b>5. Summary of the new rule or change:</b>
The repeal and reenactment of this rule deletes references to obsolete building operation and maintenance, building technology and practices, and adopts current building operation and maintenance practices.

**Fiscal Information**

<b>6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A. State budget:</b>
The Division of Facilities and Construction Management (DFCM) is currently de facto requiring state buildings to utilize current building and operation technologies and to effectuate current building operation and maintenance practices to the extent possible. Repeal and reenactment of the rule will only conform the rule to existing practice, so no anticipated cost impact on the state budget is anticipated from repeal and reenactment of the rule. At most, a small, unquantifiable savings from increased efficiency may result from repeal and reenactment of the rule.
<b>B. Local governments:</b>
None. The rule applies only to State of Utah buildings – not to local governments.
<b>C. Small businesses</b> ("small business" means a business employing 1-49 persons):
None. The rule applies only to State of Utah buildings – not to small businesses.
<b>D. Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
None. The rule applies only to State of Utah buildings – not to non-small businesses.

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

None. The rule applies only to State of Utah buildings – not to persons other than small businesses, state or local government entities.

**F. Compliance costs for affected persons:**

DFCM's statutory mandate includes assuring the efficient use of all building space under DFCM's supervision and control, Section 63A-5b-303, including: approving requests for capital development projects, Section 63A-5b-402; administering programming, Section 63A-5b-502; and the operation and maintenance of state facilities. Any compliance costs for affected persons are not the result of the rule, but of DFCM's performance of the functions given by the legislature to DFCM under state law.

**G. Regulatory Impact Summary Table** (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)

<b>Regulatory Impact Summary Table</b>					
<b>Fiscal Cost</b>	<b>FY2026</b>	<b>FY2027</b>	<b>FY2028</b>	<b>FY2029</b>	<b>FY2030</b>
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2026</b>	<b>FY2027</b>	<b>FY2028</b>	<b>FY2029</b>	<b>FY2030</b>
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Executive Director of the Department of Government Operations, Marvin Dodge, has reviewed and approved this regulatory impact analysis.

**Citation Information**

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

Subsection 63A-5b-305(2)(c)

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.**

**A. Comments will be accepted until:**

09/02/2025

**10. This rule change MAY become effective on:**

09/09/2025

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

## Agency Authorization Information

<b>Agency head or designee and title:</b>	Andrew Marr, Interim Director	<b>Date:</b>	06/30/2025
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**R23. Government Operations, Facilities Construction and Management.****R23-3. Planning, Programming, Request for Capital Development Projects and Operation and Maintenance Reporting for State Owned Facilities.****~~R23-3-1. Purpose and Authority.~~**

- ~~\_\_\_\_\_ (1) This rule establishes policies and procedures for the authorization, funding, and development of programs for capital development and capital improvement projects and the use and administration of the planning fund.~~
- ~~\_\_\_\_\_ (2) The director's authority to administer the planning process for state facilities is contained in Section 63A-5b-501.~~
- ~~\_\_\_\_\_ (3) The statute governing the planning fund is contained in Section 63A-5b-503.~~
- ~~\_\_\_\_\_ (4) The director's authority to make rules for programming and program documents is set forth in Subsection 63A-5b-502(3).~~
- ~~\_\_\_\_\_ (5) The director's authority to make rules for the division or the director to perform the division or director's duties is set forth in Subsection 63A-5b-305(2)(c).~~
- ~~\_\_\_\_\_ (6) This rule provides the standards and requirements required by Subsection 63A-5b-402(3).~~
- ~~\_\_\_\_\_ (7) The director's authority to require agencies to report operation and maintenance expenditures is set forth in Subsection 63A-5b-702(2)(f).~~

**~~R23-3-2. Definitions.~~**

- ~~\_\_\_\_\_ (1) "Agency" means as defined in Subsection 63A-1-103(1).~~
- ~~\_\_\_\_\_ (2) "Capital Development Project" is defined in Section 63A-5b-401.~~
- ~~\_\_\_\_\_ (3) "Capital Improvement Project" is defined in Section 63A-5b-401.~~
- ~~\_\_\_\_\_ (4) "Director" means the director of the division, including unless otherwise stated, the director's authorized designee.~~
- ~~\_\_\_\_\_ (5) "Division" means the Division of Facilities Construction and Management established pursuant to Section 63A-5b-301.~~
- ~~\_\_\_\_\_ (6) "Planning Fund" means the revolving fund created pursuant to Section 63A-5b-503.~~
- ~~\_\_\_\_\_ (7) "Program Document" is defined in Section 63A-5b-502.~~
- ~~\_\_\_\_\_ (8) "Programming" is defined in Section 63A-5b-502.~~

**~~R23-3-3. When a Program Document is Required.~~**

- ~~\_\_\_\_\_ (1) For capital development projects, a program document must be completed before the design may begin unless the director determines that a program document is not needed for that specific project. Examples of capital development projects that may not require a program document include land purchases, building purchases requiring little or no remodeling, and projects repeating a previously used design.~~
- ~~\_\_\_\_\_ (2) For capital improvement projects, the director shall determine whether the nature of the project requires that a program document be prepared.~~

**~~R23-3-4. Authorization of Programming.~~**

- ~~\_\_\_\_\_ (1) An agency shall receive approval from the director before the agency begins programming for a new facility that requires legislative approval under Section 63A-5b-404.~~
- ~~\_\_\_\_\_ (2) When requesting the director's approval, the agency shall justify the need for initiating the programming process at that point in time and also address the level of support for funding the project soon after the program document is completed.~~
- ~~\_\_\_\_\_ (3) The director may approve the programming of a new facility before the Legislature makes an appropriation for the new facility under Subsection 63A-5b-406(4)(c). When the program is funded by the agency, programming funds may be reimbursed from an appropriation if, at a later time, the Legislature funds the programming.~~

**~~R23-3-5. Funding of Programs.~~**

- ~~\_\_\_\_\_ Programming may be funded from one of the following sources.~~
- ~~\_\_\_\_\_ (1) Funds appropriated for that purpose by the Legislature.~~
- ~~\_\_\_\_\_ (2) Funds provided by the agency.~~
- ~~\_\_\_\_\_ (a) This would typically be the funding source for the development of a program document before the Legislature funds the project.~~
- ~~\_\_\_\_\_ (b) Funds advanced by agencies for programming costs may be included in the project budget request, but no assurance can be given that project funds will be available to reimburse the agency.~~
- ~~\_\_\_\_\_ (c) Agencies that advance funds for programming that would otherwise lapse may not be reimbursed in a subsequent fiscal year.~~
- ~~\_\_\_\_\_ (3) If an agency can demonstrate to the director that there is no other funding source for programming for a project that is likely to be funded in the upcoming legislative session, it may request to borrow funds from the planning fund as provided for in Section R23-3-8.~~

**~~R23-3-6. Administration of Programming.~~**

- ~~\_\_\_\_\_ (1) The development of a program document shall be administered by the division in cooperation with the requesting agency unless the director authorizes the requesting agency to administer the programming.~~



~~\_\_\_\_\_ (2) This section does not apply to projects that are exempt from the division's administration pursuant to Subsection 63A-5b-604(6).~~

**~~R23-3-7. Restrictions of Programming Firm.~~**

- ~~\_\_\_\_\_ (1) The division may in its sole discretion based on the interest of the State, determine whether a programming firm or person may be able to participate in any of the design or other similar aspects of a project.~~
- ~~\_\_\_\_\_ (2) If there is any restriction of a programming firm to participate in future selections of a project, the division, shall provide this restriction in any competitive solicitation, if there is one, which may be issued for selecting a programming firm. If there is no solicitation for the selection of the programming firm such as sole source, small purchase, emergency procurement, then the division may simply provide any restriction of the firm's future participation in any other aspect of the project, by placing the restriction in the contract.~~
- ~~\_\_\_\_\_ (3) The division may terminate or suspend programming and design contracts at any time consistent with the provisions of the contract.~~

**~~R23-3-8. Use and Reimbursement of Planning Fund.~~**

- ~~\_\_\_\_\_ (1) The planning fund may be used for the purposes stated in Section 63A-5b-503 including the development of:~~
- ~~\_\_\_\_\_ (a) facility master plans;~~
- ~~\_\_\_\_\_ (b) program documents; and~~
- ~~\_\_\_\_\_ (c) building evaluations or studies to determine the feasibility, scope, and cost of capital development and capital improvement requests.~~
- ~~\_\_\_\_\_ (2) Expenditures from the planning fund must be approved by the director.~~
- ~~\_\_\_\_\_ (3) The planning fund shall be reimbursed from the next funded or authorized project for that agency that is related to the purposes for which the expenditure was made from the planning fund.~~

**~~R23-3-9. Development and Approval of Master Plans.~~**

- ~~\_\_\_\_\_ (1) For each major campus of state owned buildings, the agency with primary responsibility for operations occurring at the campus shall, in cooperation with the division, develop and maintain a master plan that reflects the current and projected development of the campus.~~
- ~~\_\_\_\_\_ (2) The purpose of the master plan is to encourage long term planning and to guide future development.~~
- ~~\_\_\_\_\_ (3) Master plans for campuses and facilities not covered by Subsection (1) may be developed when the division and the agency determine that a master plan is necessary or appropriate.~~
- ~~\_\_\_\_\_ (4) The initial master plan for a campus, and any substantial modifications thereafter, shall be presented to the director for approval.~~

**~~R23-3-10. Standards and Requirements for a Capital Development Project Request, Including a Feasibility Study.~~**

- ~~\_\_\_\_\_ (1) The director shall establish a form for the consideration of capital development projects which provides the following:~~
- ~~\_\_\_\_\_ (a) the type of request, including whether it is, in whole or part, state funded, non-state or private funded, or whether it is non-state or private funded with an operations and maintenance request;~~
- ~~\_\_\_\_\_ (b) defines the appropriateness and the project scope including proposed square footage;~~
- ~~\_\_\_\_\_ (c) the proposed cost of the project including the preliminary cost estimate, proposed funding, the previous state funding provided, as well as other sources;~~
- ~~\_\_\_\_\_ (d) the proposed ongoing operating budget funding, new program costs, and new full-time employees for the operations and maintenance and other programs;~~
- ~~\_\_\_\_\_ (e) an analysis of current facilities and why the proposed facility is needed;~~
- ~~\_\_\_\_\_ (f) a project executive summary of why the project is needed including the purpose of the project, the benefits to the State, how it relates to the mission of the entity and related aspects;~~
- ~~\_\_\_\_\_ (g) the feasibility and planning of the project that includes how it corresponds to the applicable master plan, the economic impacts of the project, pedestrian, transportation, and parking issues, various impacts including economic and community impacts, the extent of site evaluation, utility, and infrastructure concerns and all other aspects of a customary feasibility study for a project of the particular type, location, size, and magnitude;~~
- ~~\_\_\_\_\_ (h) any land banking requests; and~~
- ~~\_\_\_\_\_ (i) any other federal or state statutory or rule requirements related to the project.~~
- ~~\_\_\_\_\_ (2) The form referred to in Subsection (1) shall also include the scoring criteria and weighting of the scores to be used in the division's prioritization process, including:~~
- ~~\_\_\_\_\_ (a) existing building deficiencies and life safety concerns;~~
- ~~\_\_\_\_\_ (b) essential program growth;~~
- ~~\_\_\_\_\_ (c) cost effectiveness;~~
- ~~\_\_\_\_\_ (d) project need, including the improved program effectiveness and support of critical programs or initiatives;~~
- ~~\_\_\_\_\_ (e) the availability of alternative funding sources that does not include funding from the Utah Legislature; and~~
- ~~\_\_\_\_\_ (f) weighting for all the criteria as published in the Five Year Building Program for each agency as published and submitted to the Utah Legislature for the General Session immediately preceding the prioritization of the division unless the director has approved a different criteria or weighting system.~~
- ~~\_\_\_\_\_ (3) The division shall verify the completion and accuracy of the feasibility study referred to in this rule.~~

~~\_\_\_\_\_ (4) An institution of higher education described in Subsection 63A-5b-102(6) shall comply with Section 53B-2a-117 or 53B-22-204, as applicable and the division shall comply with Section 63A-5b-403.~~

~~\_\_\_\_\_ (5) An agency may submit an initial capital development request to the division no later than the third Monday of July before the Utah Legislative Session that the request is related.~~

~~\_\_\_\_\_ (6) An agency shall use best efforts to modify any submitted initial capital development request which was submitted to the division, no later than the last Monday of September before the Utah Legislative Session that the request is related. Notwithstanding, the director reserves the right to modify the request at any time. Any modification under this rule shall be for a correction, or to better meet the standards or requirements of this rule.~~

**~~R23-3-11. Standards and Requirements Related to Operations and Maintenance of State-Owned Facilities.~~**

~~\_\_\_\_\_ (1) No later than October 1 of each calendar year, each agency shall report operations and maintenance expenditures for state owned facilities covering the prior fiscal year to the director in accordance with Section 63A-5b-702 and this rule. All data must be entered into the Riskconnect database by the agency in accordance with the format outlined by the director.~~

~~\_\_\_\_\_ (2) The facility maintenance standards shall include utility metering requirements to track the utility costs as well as all other necessary requirements to monitor facility maintenance costs.~~

~~\_\_\_\_\_ (3) The adopted division facility management standards including annual reporting requirements shall be published on the division website.~~

~~\_\_\_\_\_ (4) The director shall oversee the conducting of facility maintenance audit for state-owned facilities.~~

~~\_\_\_\_\_ (5) Each agency shall create operations and maintenance programs in accordance with this rule and have it included in the agency institutional line items. On or before September 1, 2016, and each September 1 of every following year, each agency shall revise the agency's budget to comply with Section 63A-5b-702 and this rule, including the inclusion of the amount the agency received and expended on operations and maintenance for the immediately preceding fiscal year. The director may request when it is in the interest of the division to understand the amount of operations and maintenance funding available for a building, that an agency provide the information of the amounts received and expended on a per building basis.~~

~~\_\_\_\_\_ (6) The director in the annual capital needs request sent to the agencies, shall provide an adjustment for inflationary costs of goods and services for the previous 12 months from the issuance of the annual needs request. When the annual report of each agency is submitted to the Office of the Legislative Fiscal Analyst and the Governor's Office of Management and Budget, it shall include the review and adjustment for inflationary costs of goods and services. All matters in this subsection shall be in accordance with Subsection 63A-5b-402(3) and this rule.~~

~~\_\_\_\_\_ (7) The report by the agencies to the director shall also include the actual cost for operations and management requests for a new facility, when applicable.~~

**~~R23-3-12. Operations and Maintenance Standards, Facilities Maintenance Programs, and Standards.~~**

~~\_\_\_\_\_ The purpose of these programs and standards is to outline the minimum requirements for maintaining state owned facilities and infrastructures in a manner that will maximize the usefulness and cost effectiveness of these facilities in enhancing the quality of life of Utah state employees, citizens, and visitors. Additional work may be required to satisfy code or judicial requirements. All agencies and institutions shall comply and will be audited against these standards by the division. Exempt agencies are to review their maintenance programs against these standards and to report the degree of compliance for each of their individual building level or complexes to the Legislature through the division.~~

~~\_\_\_\_\_ (1) Documentation.~~

~~\_\_\_\_\_ (a) Architectural and Mechanical.~~

~~\_\_\_\_\_ (i) At least one copy of the Operations and Maintenance Manuals shall be maintained at the facility or complex.~~

~~\_\_\_\_\_ (ii) At least one copy of the architectural, mechanical, and electrical as-built drawings shall be maintained at the facility or complex.~~

~~\_\_\_\_\_ (iii) A mechanism shall be provided whereby as-built drawings are promptly updated upon changes in the structural, mechanical, electrical, or plumbing systems.~~

~~\_\_\_\_\_ (iv) As-built drawings shall be reviewed periodically to ensure that they reflect the current building or infrastructure configuration to be maintained at the facility or complex.~~

~~\_\_\_\_\_ (v) Reserve copies of all building documentation shall be archived in an appropriate and separate location from the facility.~~

~~\_\_\_\_\_ (2) Equipment Data Base and Tagging.~~

~~\_\_\_\_\_ (a) An appropriate equipment numbering system shall be utilized and metal, plastic tags, or labels placed on all building equipment and electrical panels.~~

~~\_\_\_\_\_ (b) All equipment name plate data shall be collected, documented, and filed in a computerized data base or computerized maintenance management system (CMMS).~~

~~\_\_\_\_\_ (3) Corrective Maintenance.~~

~~\_\_\_\_\_ (a) A work request system shall be defined and made available to the user of the facility or infrastructure so that maintenance problems can be reported and logged promptly by the maintenance department. A log of all requests shall be maintained indicating the date of the request and the date of completion.~~

~~\_\_\_\_\_ (b) A work order system shall be established to govern the procedures for corrective maintenance work. The work order system shall capture maintenance time, costs, nature of repair, and shall provide a basis for identifying maintenance backlog on the facility or infrastructure.~~

~~\_\_\_\_\_ (c) Maintenance backlogs on the facility or infrastructure shall be regularly reviewed and older requests processed so that no request goes unheeded and all requests are acted upon in a timely manner.~~

~~\_\_\_\_\_ (d) A priority system for corrective maintenance shall be established so that maintenance work is accomplished in an orderly and systematic manner. The facility user shall be made aware of the priority of requested maintenance and the time expected to accomplish the correction. If the stated goal cannot be met, the user shall be informed of the new goal for completing the request.~~

~~\_\_\_\_\_ (e) The agency and institution shall report to the director current and accurate operations and maintenance costs tracked to the individual building level for any facility measuring 3,000 GSF or greater. Locations consisting of multiple facilities that individually do not meet the minimum GSF requirement shall be required to report operations and maintenance costs at the campus or complex level. Reporting for individual building operations and maintenance cost shall be reported no later than October 1 of each year.~~

~~\_\_\_\_\_ (f) All operations and maintenance expenditure reports for both direct and indirect cost shall contain current and accurate costs including: utilities, electrical, gas or fuel, and water and in certain cases steam, high temperature water, chilled water and sewer may need reporting, labor, materials, custodial, landscape and grounds services, insurance, travel, leasing, and rent. The direct and indirect costs shall be adjusted for inflation based on the applicable portion of the consumer price index in the reasonable discretion of the director.~~

~~\_\_\_\_\_ (4) Preventive Maintenance.~~

~~\_\_\_\_\_ (a) State facilities managers shall automate preventive maintenance scheduling and equipment data bases.~~

~~\_\_\_\_\_ (b) All equipment including chillers, boilers, air handlers and associated controls, air compressors, restroom exhaust fans, domestic hot water circulating pumps, automatic door operators, temperature control devices, shall be on a computer based preventive maintenance schedule. The frequency of preventive maintenance procedures shall be determined by manufacturer's recommendations and local craft expertise and site specific conditions.~~

~~\_\_\_\_\_ (c) A filter maintenance schedule shall be established for HVAC filters and a record of filter changes maintained.~~

~~\_\_\_\_\_ (d) Preventive maintenance work orders shall be issued for both contract and in house preventive maintenance and the completion of the prescribed maintenance requirements documented.~~

~~\_\_\_\_\_ (e) Emergency generators shall be test run at least monthly. If test runs are not automatic, records of these test runs shall be maintained at the site. At least yearly, the transfer from outside power to emergency power shall be scheduled and successfully performed.~~

~~\_\_\_\_\_ (5) Boilers.~~

~~\_\_\_\_\_ (a) Steam Boilers.~~

~~\_\_\_\_\_ (i) Steam boilers shall be checked daily when operational or on an automated tracking system.~~

~~\_\_\_\_\_ (ii) Low water cut off devices shall be checked for actual boiler shut down at the beginning of the heating season and at least quarterly thereafter by duplicating an actual low water condition.~~

~~\_\_\_\_\_ (iii) Boiler relief valves shall be tested for proper operation at least annually.~~

~~\_\_\_\_\_ (iv) A record of these tests shall be maintained near the location of the boiler.~~

~~\_\_\_\_\_ (v) A daily log of the operating parameters shall be maintained on boilers when they are operational to include pressures, temperatures, water levels, condition of makeup and boiler feed water, and name of individual checking parameters.~~

~~\_\_\_\_\_ (b) Hot Water And Steam Boilers~~

~~\_\_\_\_\_ (i) All boilers shall receive inspections and certification as required from an authorized state agent or insurance inspector. The certificate of compliance shall be maintained at the boiler.~~

~~\_\_\_\_\_ (ii) Monthly tests of boiler water pH and Total Dissolved Solids shall constitute the basis upon which to add water treatment chemicals. A log of these tests shall be maintained in the boiler room.~~

~~\_\_\_\_\_ (6) Life Safety.~~

~~\_\_\_\_\_ (a) All elevators shall receive regular inspections and maintenance by certified elevator maintenance contractors. Records of such maintenance shall be maintained at the site. Telephones within elevators shall be checked monthly for proper operation.~~

~~\_\_\_\_\_ (i) All elevators shall have current Permits to Operate posted near the elevator equipment as required by the Utah State Labor Commission.~~

~~\_\_\_\_\_ (b) Fire Protection Equipment.~~

~~\_\_\_\_\_ (i) Detection and notification systems including control panel, smoke detection devices, heat sensing devices, strobe alarm lights, audible alarm indicating devices, phone line communication module, shall be inspected annually and tested for operation at least semi-annually by a properly certified technician. A record of these inspections shall be maintained and the FACP needs to be properly tagged as required by the Utah State Fire Marshal.~~

~~\_\_\_\_\_ (ii) Halon or Ansul pre-action systems shall be inspected and tested by a certified inspector semi-annually to ensure their readiness in the event of a fire. Testing and inspection of these systems shall be documented.~~

~~\_\_\_\_\_ (iii) Fire extinguishers shall be inspected monthly and tagged annually by a certified inspector and all tags should be properly and legibly completed.~~

~~\_\_\_\_\_ (iv) Automatic fire sprinkler systems, standpipes, and fire pumps shall be inspected annually by a certified technician. Tags should be properly and completely filled out including the type of inspection, month and year those inspections were performed, the person who performed the inspection, and the certificate of registration number of the person performing the inspection.~~

~~\_\_\_\_\_ (c) Uninterruptible power supply systems for data processing centers shall be inspected and tested appropriately to ensure their readiness in the event of external power interruptions. Maintenance on these systems shall be documented.~~

~~\_\_\_\_\_ (d) Emergency directional and exit devices including exit signs, emergency lights, ADA assist equipment, alarm communicators, shall be inspected at least quarterly for proper operation.~~

~~\_\_\_\_\_ (7) Air Conditioning and Refrigerated Equipment.~~

~~\_\_\_\_\_ (a) Chillers.~~

## NOTICES OF PROPOSED RULES

- \_\_\_\_\_ (i) A daily log or computerized log of important data including chilled water supply and return temperature, condenser water supply and return temperature, current draw, outside air temperature, oil level and pressure, should be kept, and the information trended to identify changes in the system operation. The causes of change should then be determined and corrected to prevent possible system damage.
- \_\_\_\_\_ (ii) The systems shall be leak checked on a quarterly basis during the operating season and once during the winter.
- \_\_\_\_\_ (iii) A factory trained technician should perform a service inspection annually to include an oil analysis. Any abnormal results should be discussed with the chiller manufacturer to determine a proper course of action.
- \_\_\_\_\_ (iv) Chillers shall not be permitted to leak more than 15% of their total charge annually. Losses exceeding this amount are in violation of the law and may result in costly fines.
- \_\_\_\_\_ (v) Should refrigerant need to be added to a system, document the amount of refrigerant added; the cause of the loss; and type of repairs done.
- \_\_\_\_\_ (vi) An adequate supply of refrigerant for the uninterrupted operation of existing CFC chillers shall be maintained until the chiller is converted or replaced. Examples of CFCs are R11, R12, R113, R502.
- \_\_\_\_\_ (vii) Maintenance personnel that perform work other than daily logs and visual inspections on CFC chillers or refrigeration equipment containing CFCs or HCFCs must by law have an EPA certification matching the type of equipment being serviced.
- \_\_\_\_\_ (viii) The condition of refrigerant cooling water systems such as cooling towers shall be checked visually at least weekly for algae growth and scaling and appropriate treatment administered.
- \_\_\_\_\_ (b) Roof Top and Package Units.
  - \_\_\_\_\_ (i) Annually check and clean as needed the condenser coil and evaporator coil.
  - \_\_\_\_\_ (ii) The following preventive maintenance items shall be completed annually: tighten belts, oil motors, leak check, clean evaporator pans and drains.
  - \_\_\_\_\_ (iii) Quarterly check filters and replace where necessary.
- \_\_\_\_\_ (c) Small Refrigerated Equipment.
  - \_\_\_\_\_ (i) Annually clean condenser coil.
  - \_\_\_\_\_ (ii) Annually oil the condenser fan motor and visually inspect the equipment and make necessary repairs as needed.
- \_\_\_\_\_ (8) Plumbing.
  - \_\_\_\_\_ (a) All Backflow Prevention Devices shall be tested by a certified technician at least annually and proper documentation shall be filed with the appropriate agency. Proper documentation shall be kept on site and readily available.
  - \_\_\_\_\_ (b) Cross connection control shall be provided on any water operated equipment or mechanism using water treating chemicals or substances that may cause pollution or contamination of domestic water supply.
  - \_\_\_\_\_ (c) Any water system containing storage water heating equipment shall be provided with an approved, UL listed, adequately sized combination temperature and pressure relief valve, and must also be seismically strapped.
  - \_\_\_\_\_ (d) Pressure vessels must be tested annually or as required and all certificates must be kept current and available on site.
- \_\_\_\_\_ (9) Electrical Systems.
  - \_\_\_\_\_ (a) All electrical panels shall have a thermal scan test performed bi annually on all components to identify hot spots or abnormal temperatures. The results of the test shall be documented.
  - \_\_\_\_\_ (b) A clearance of three feet, or as required by NEC shall be maintained around all electrical panels and electrical rooms shall not be used for general storage.
  - \_\_\_\_\_ (c) Every electrical panel shall be properly labeled identifying the following: panel identifier; area being serviced by each individual breaker; and equipment being serviced by each breaker or disconnect.
  - \_\_\_\_\_ (d) All pull boxes, junction boxes, electrical termination boxes shall have proper covers in place and panels accessible to persons other than maintenance personnel shall remain locked to guard against vandalism or personal injury.
  - \_\_\_\_\_ (e) Only qualified electrical personnel shall be permitted to work on electrical equipment.
- \_\_\_\_\_ (10) Facility Inspections.
  - \_\_\_\_\_ (a) The facility shall periodically receive a detailed and comprehensive maintenance audit. The audit shall include HVAC filter condition, mechanical room cleanliness and condition, corrective and preventive maintenance programs, facility condition, ADA compliance, level of performance of the janitorial service, condition of the grounds, and a customer survey to determine the level of user satisfaction with the facility and the facility management and maintenance services.
  - \_\_\_\_\_ (b) A copy of the audit shall be maintained at the facility.
  - \_\_\_\_\_ (c) Each year a Facility Risk Management Inspection shall be conducted, documented, and filed with the Risk Management Division of the Department of Government Operations.
  - \_\_\_\_\_ (d) Actions necessary to bring the facility into compliance with Risk Management Standards for routine maintenance items shall be completed within two months following the Risk Management Inspection. Items requiring capital expenditures shall be budgeted and accomplished as funds can be obtained.
  - \_\_\_\_\_ (e) Every five years the facility shall be inspected and evaluated by an Architect/Engineer (A/E), qualified third party or qualified in house personnel to determine structural and infrastructural maintenance and preventive maintenance needs.
  - \_\_\_\_\_ (i) The structural inspection and evaluation may include interior and exterior painting, foundations, walls, carpeting, windows, roofs, doors, ADA and OSHA compliance, brick work, landscaping, sidewalks, structural integrity, and exterior surface cleanliness.
  - \_\_\_\_\_ (ii) The mechanical and electrical evaluation shall include the HVAC systems, plumbing systems, security, fire prevention and warning systems, and electrical distribution systems.
  - \_\_\_\_\_ (f) The inspection shall be documented and shall serve as a basis for budgeting for needed capital improvements.
  - \_\_\_\_\_ (g) Intrusion alarm systems that communicate via phone line shall be tested monthly to ensure proper operation.

~~(h) Periodic inspections of facilities may be requested of local fire departments and the identified deficiencies promptly corrected. These inspections and corrections shall be documented and kept on file at the facility.~~

~~(11) Indoor Air Quality and Energy Management.~~

~~(a) Indoor air quality shall be maintained within pertinent ASHRAE, OSHA, and State of Utah guidelines.~~

~~(b) All individual building utility costs such as gas, electric, and water at facilities meeting the criteria listed in Section 3.5 of the Facility Maintenance Standards shall be metered and reported back to the director by October 1 of each year and made available at the facility so that energy usage can be accurately determined and optimized.~~

~~(c) Based on the ongoing analysis of energy usage, appropriate energy conservation measures shall be budgeted for, implemented, and the resulting energy savings documented.~~

~~(12) The following documents shall be on hand at the facility where applicable, in an up-to-date condition:~~

~~(a) A Hazardous Materials Management Plan;~~

~~(b) An Asbestos Control and Management Plan;~~

~~(c) A Laboratory Hygiene Plan;~~

~~(d) A Lockout or Tag-out Procedure for Performing Maintenance on Building Equipment;~~

~~(e) A Blood Born Pathogen Program;~~

~~(f) An Emergency Management Plan to include emergency evacuation and disaster recovery; and~~

~~(g) A Respirator Program.]~~

**R23-3-1. Purpose and Authority.**

(1) This rule establishes policies and procedures for the authorization, funding, and development of programs for capital development and capital improvement projects and the use and administration of the planning fund.

(2) The director's authority to administer the planning process for state facilities is contained in Section 63A-5b-501.

(3) The statute governing the planning fund is contained in Section 63A-5b-503.

(4) The director's authority to make rules for programming and program documents is set forth in Subsection 63A-5b-502(3).

(5) The director's authority to make rules for the division or the director to perform the division or director's duties is set forth in Subsection 63A-5b-305(2)(c).

(6) This rule provides the standards and requirements required by Subsection 63A-5b-402(3).

(7) The director's authority to require agencies to report operation and maintenance expenditures is set forth in Subsection 63A-5b-702(2)(f).

**R23-3-2. Definitions.**

(1) "Agency" means as defined in Subsection 63A-1-103(1).

(2) "Capital Development Project" is defined in Section 63A-5b-401.

(3) "Capital Improvement Project" is defined in Section 63A-5b-401.

(4) "Director" means the director of the division, including unless otherwise stated, the director's authorized designee.

(5) "Division" means the Division of Facilities Construction and Management established pursuant to Section 63A-5b-301.

(6) "Planning Fund" means the revolving fund created pursuant to Section 63A-5b-503.

(7) "Program Document" is defined in Section 63A-5b-502.

(8) "Programming" is defined in Section 63A-5b-502.

**R23-3-11. Standards and Requirements Related to Operations and Maintenance of State Owned Facilities.**

(1) No later than October 1 of each calendar year, each agency shall report operations and maintenance expenditures for state owned facilities covering the prior fiscal year to the director in accordance with Section 63A-5b-702 and this rule.

(2) The facility maintenance standards shall include utility metering requirements to track the utility costs as well as all other necessary requirements to monitor facility maintenance costs. Culinary Irrigation metering is included and should be reported per Section 63A-5b-1108.

(3) The adopted facility management standards including annual reporting requirements shall be published on the division website.

(4) The director shall oversee the conducting of facility maintenance audits for state owned facilities.

(5) Each agency shall create operations and maintenance programs in accordance with this rule and have it included in the agency institutional line items. On or before September 1, 2025, and each September 1 of every following year, each agency shall revise the agency's budget to comply with Section 63A-5b-702 and this rule, including the inclusion of the amount the agency received and expended on operations and maintenance for the immediately preceding fiscal year. The director may request when it is in the interest of the division to understand the amount of operations and maintenance funding available for a building, that an agency provide the information of the amounts received and expended on a per-building basis.

(6) The director in the annual capital needs request sent to the agencies, shall provide an adjustment for inflationary costs of goods and services for the previous 12 months from the issuance of the annual needs request. When the annual report of each agency is submitted to the Office of the Legislative Fiscal Analyst and the Governor's Office of Management and Budget, it shall include the review and adjustment for inflationary costs of goods and services. All matters in this subsection shall be in accordance with Subsection 63A-5b-402(3) and this rule.

(7) The report by the agencies to the director shall also include the actual cost for operations and management requests for a new facility, when applicable.

**R23-3-12. Operations and Maintenance Standards, Facilities Maintenance Programs, and Standards.**

The purpose of these programs and standards is to outline the minimum requirements for maintaining state owned facilities and infrastructures in a manner that will maximize the usefulness and cost effectiveness of these facilities in enhancing the quality of life of Utah state employees, citizens, and visitors. Additional work may be required to satisfy code or statutory requirements. All agencies and institutions shall comply and will be audited against these standards by the division. Exempt agencies are to review their maintenance programs against these standards and to report the degree of compliance for each of their individual building level or complexes to the Legislature through the division. All Agencies and institutions shall comply with the adopted editions of the International Building Code, International Fire Code, and other applicable codes in all new construction, remodels, or additions to existing facilities. All Agencies and institutions shall follow the requirements of Occupational Safety and Health Administration (OSHA) and Utah Occupational Safety and Health (UOSH).

(1) Documentation.

(a) As-Built Drawings and Operations and Maintenance Manuals.

(i) At least one copy of the Operations and Maintenance Manuals shall be maintained at the facility or complex. Electronic or hard copies are acceptable.

(ii) At least one copy of the architectural, mechanical, and electrical as-built drawings shall be maintained at the facility or complex. Electronic or hard copies are acceptable.

(iii) A mechanism shall be provided whereby as-built drawings are promptly updated upon changes in the structural, mechanical, electrical, or plumbing systems.

(iv) As-built drawings shall be reviewed periodically to ensure that they reflect the current building or infrastructure configuration to be maintained at the facility or complex.

(v) Reserve electronic or hard copies of all building documentation shall be archived in an appropriate and separate location from the facility.

(vi) Customer service surveys shall be made available onsite.

(b) The agency and institution shall report to the division the current and accurate O&M costs tracked to the individual building level for any facility measuring 3,000 GSF or greater. Locations consisting of multiple facilities that individually do not meet the minimum GSF requirement shall be required to report O&M costs at the campus or complex level. Individual building O&M costs shall be reported between October 1 and December 31, of each year.

(i) All operations and maintenance expenditure reports for both direct and indirect cost shall contain current and accurate costs including utilities, electrical, gas or fuel, and water and in certain cases steam, high temperature water, chilled water, sewer, labor, materials, custodial, landscape and grounds services, insurance, travel, leasing, and rent and 3<sup>rd</sup> party repair costs. The direct and indirect costs shall be adjusted for inflation based on the applicable portion of the consumer price index in the reasonable discretion of the director.

(c) All state agencies and institutions shall comply with the Division's maintenance requirements.

(2) Equipment Database and Tagging.

(a) An appropriate equipment numbering system shall be utilized and metal, plastic tags, or labels placed on all building equipment and electrical panels.

(b) All equipment nameplate data shall be collected, documented, and filed in the computerized maintenance management system (CMMS).

(c) When Facility Condition Assessments are conducted QR or Barcode asset tags will be installed that match the information in the CMMS.

(3) Computerized Maintenance Management Systems (CMMS).

(a) Corrective Maintenance.

(i) A work request system shall be defined and made available in the CMMS to the user of the facility or infrastructure so that maintenance problems can be reported and logged promptly by the maintenance department. A log of all requests shall be maintained indicating the date of the request and the date of completion.

(ii) A work order system shall be established within the CMMS to govern the procedures for corrective maintenance work. The work order system shall capture maintenance time, costs, nature of repair, and shall provide a basis for identifying maintenance backlog on the facility or infrastructure. The CMMS shall track the following for corrective maintenance work.

1. Date of the request.

2. Category of repair: including mechanical, plumbing, electrical, fire life safety and security This is not an inclusive list; each facilities team should create categories for their needs. Some agencies may also want sub-categories layered below the main categories.

3. Priority of request: as an example, an emergency (fire, flood or major security issue), some time that day, within three days, within a week, as time allows. This is an example of a priority system and each facilities team should work within their CMMS to create a clear prioritization structure.

4. Description of the work being requested. Each agency should determine what pertinent information needs to be gathered at the initial request to support an efficient work process for the facilities team.

5. The shop or technician to which the work is assigned. The assignment of technician may happen after the shop assignment at the initial request, but the information should be captured in the CMMS.

6. The cost of the work once completed, including the time the technician spent on the work order.

7. The date the work was completed.

8. All notes added to the work as it moved through to completion.

(iii) Maintenance backlogs on the facility or infrastructure shall be regularly reviewed and older requests processed so that no request goes unheeded, and all requests are acted upon in a timely manner.

(iv) A priority system for corrective maintenance shall be established so that maintenance work is accomplished in an orderly and systematic manner. The facility user shall be made aware of the priority of requested maintenance and the time expected to accomplish the correction. If the stated goal cannot be met, the user shall be informed of the new goal for completing the request.

(b) Preventive Maintenance.

(i) State facilities managers shall use a CMMS to automate preventive maintenance scheduling.

(ii) All equipment including chillers, boilers, air handlers and associated controls, air compressors, restroom exhaust fans, domestic hot water circulating pumps, automatic door operators, temperature control devices, shall be on a computer based preventive maintenance schedule. The frequency of preventive maintenance procedures shall be determined by manufacturer's recommendations and local craft expertise and site-specific conditions.

(iii) A filter maintenance schedule shall be established for HVAC filters and a record of filter changes maintained.

(iv) Preventive maintenance work orders shall be issued for both contract and in-house preventive maintenance and the completion of the prescribed maintenance requirements documented.

(v) Emergency generators shall be test run at least monthly. If test runs are not automatic, records of these test runs shall be maintained at the site. At least yearly, the transfer from outside power to emergency power shall be scheduled and successfully performed.

(vi) All interior and exterior spaces should be kept clean, accessible and organized.

(c) Maintenance work completed by contractors needs to be recorded, either through the CMMS with a work order creation, or through a contracting process that can be reviewed by the building auditor if requested. Invoices may be requested.

(4) Boilers.

(a) Steam Boilers.

(i) Steam boilers shall be checked daily when operational or on an automated tracking system.

(ii) Low water cut off devices shall be checked for actual boiler shut down at the beginning of the heating season and at least quarterly thereafter by duplicating an actual low-water condition.

(iii) All boiler relief valves shall be tested for proper operation at least annually.

(iv) A record of these tests shall be maintained near the location of the boiler.

(v) A daily log of the operating parameters shall be maintained on boilers when they are operational to include pressures, temperatures, water levels, condition of makeup and boiler feed water, and name of individual checking parameters.

(b) Hot Water And Steam Boilers.

(i) All boilers 200,000 and over shall receive inspections and certification as required from an authorized state agent or insurance inspector. The certificate of compliance shall be maintained at the boiler.

(ii) Monthly tests of boiler water pH and Total Dissolved Solids shall constitute the basis upon which to add water treatment chemicals. A log of these tests shall be maintained in the boiler room.

(5) Life Safety.

(a) All elevators shall receive regular inspections and maintenance by certified elevator maintenance contractors. Records of such maintenance shall be maintained at the site. Telephones within elevators shall be checked monthly for proper operation.

(b) All elevators shall have current Permits to Operate posted near the elevator equipment room or available one site as required by the Utah State Labor Commission.

(c) Fire Protection Equipment.

(i) Detection and notification systems including control panel, smoke detection devices, heat sensing devices, strobe alarm lights, audible alarm indicating devices, phone line communication module, shall be inspected annually and tested for operation at least semi-annually by a properly certified technician. A record of these inspections shall be maintained and the FACP needs to be properly tagged as required by the Utah State Fire Marshal.

(ii) Halon or Ansul pre-action systems shall be inspected and tested by a certified inspector semi-annually to ensure their readiness in the event of a fire. Testing and inspection of these systems shall be documented.

(iii) Fire extinguishers shall be inspected monthly and tagged annually by a certified inspector and all tags should be properly and legibly completed.

(iv) Automatic fire sprinkler systems, standpipes, and fire pumps shall be inspected annually by a certified technician. Tags should be properly and completely filled out including the type of inspection, month and year those inspections were performed, the person who performed the inspection, and the certificate of registration number of the person performing the inspection.

(d) Uninterruptible power supply systems for data processing centers shall be inspected and tested appropriately to ensure their readiness in the event of external power interruptions. Maintenance on these systems shall be documented.

(e) Emergency directional and exit devices including exit signs, emergency lights, ADA assist equipment, and alarm communicators, shall be inspected at least quarterly for proper operation.

(f) Intrusion alarm systems that communicate via phone line shall be tested monthly to ensure proper operation.

(6) Air Conditioning and Refrigerated Equipment.

(a) Chillers.

(i) A daily log or computerized log of important data including chilled water supply and return temperature, condenser water supply and return temperature, current draw, outside air temperature, oil level and pressure, should be kept, and the information trended to identify changes in the system operation. The causes of change should then be determined and corrected to prevent possible system damage.

(ii) The systems shall be leak checked on a quarterly basis during the operating season and once during the winter.

(iii) A factory-trained or other qualified technician should perform a service inspection annually to include an oil analysis by a third party. Any abnormal results should be discussed with the chiller manufacturer to determine a proper course of action.

(iv) Chillers may not be permitted to leak more than 15% of their total charge annually.

## NOTICES OF PROPOSED RULES

- (v) Should refrigerant need to be added to a system, document the amount of refrigerant added; the cause of the loss; and type of repairs done.
- (vi) An adequate supply of refrigerant for the uninterrupted operation of existing CFC chillers shall be maintained until the chiller is converted or replaced. Examples of CFCs are R11, R12, R113, R502.
- (vii) Maintenance personnel that perform work other than daily logs and visual inspections on CFC chillers or refrigeration equipment containing CFCs or HCFCs must by law have an EPA certification matching the type of equipment being serviced.
- (viii) The condition of refrigerant cooling water systems such as cooling towers shall be checked visually at least weekly for algae growth and scaling and appropriate treatment administered.
- (b) Roof Top and Package Units.
  - (i) Annually check and clean as needed the condenser coil and evaporator coil.
  - (ii) The following preventive maintenance items shall be completed annually: tighten belts, oil motors, leak check, clean evaporator pans and drains.
  - (iii) Quarterly check filters and replace them where necessary.
- (c) Small Refrigerated Equipment.
  - (i) Annually clean condenser coil.
  - (ii) Annually oil the condenser fan motor and visually inspect the equipment and make necessary repairs as needed.
- (7) Plumbing.
  - (a) All Backflow Prevention Devices shall be tested by a certified technician at least annually and proper documentation shall be filed with the appropriate agency. Proper documentation shall be kept on site and readily available.
  - (b) Cross-connection control shall be provided on any water operated equipment or mechanism using water treating chemicals or substances that may cause pollution or contamination of domestic water supply.
  - (c) Any water system containing storage water heating equipment shall be provided with an approved, UL listed, adequately sized combination temperature and pressure relief valve and must also be seismically strapped.
  - (d) Pressure vessels must be tested annually or as required and all certificates must be kept current and available on site.
  - (e) If the backflow prevention device is tagged, the tag shall be current.
- (8) Electrical Systems.
  - (a) All electrical panels and transformers shall have a thermal-scan test performed bi-annually on all components to identify hot spots or abnormal temperatures. The results of the test shall be documented.
  - (b) A clearance of three feet, or as required by NEC, shall be maintained around all electrical panels and electrical rooms may not be used for general storage.
  - (c) Every electrical panel shall be properly labeled identifying the following: panel identifier; area being serviced by each individual breaker; and equipment being serviced by each breaker or disconnect.
  - (d) All pull boxes, junction boxes, electrical termination boxes shall have proper covers in place and panels accessible to persons other than maintenance personnel shall remain locked to guard against vandalism or personal injury.
  - (e) Only qualified electrical personnel shall be permitted to work on electrical equipment.
- (9) Roofing.
  - (a) Roofs will be inspected in the spring and fall and after every major storm event. Inspections shall be recorded in the CMMS. For questions or concerns contact the division Roofing Program Manager.
  - (b) Roofs will be kept free of debris.
  - (c) Ponding water shall be corrected. Ponding water is anything that will remain on the roof after 48 hours.
  - (d) All equipment is permanently mounted. Nothing resting on the membrane is permitted.
  - (e) Roof warranty information shall be available.
  - (f) Roof access shall be secure.
  - (g) Inspections will include all exterior cladding.
- (10) Paving.
  - (a) All Parking lots, sidewalks, curbs, gutters, storm drains, and ADA ramps will be inspected no less than annually. Inspections shall be recorded in the CMMS. For questions or concerns contact the division Paving Program Manager.
  - (b) All Parking lots, sidewalks, curbs, gutters, storm drains, and ADA ramps shall be clean and free of debris.
  - (c) Striping shall be visible and in good condition.
  - (d) ADA compliant signage shall be installed and in good repair.
  - (e) Handrails shall be checked for stability and kept in good repair.
  - (f) Manhole covers and valve box covers shall be installed and in good repair.
  - (g) Parking bumper blocks shall be secure and in good repair.
  - (h) Parking lot lighting shall be in working condition.
- (11) Hazardous materials. Any activity involving demolition, cutting or any other activity that could make building material friable, create dust or fumes requires that a hazmat survey has been conducted on the material being affected and is on site. For questions or concerns contact the division Hazardous Materials Program Manager.
- (12) Grounds. Grounds shall be maintained with a clean appearance. This includes mowing and weeding where appropriate. All outdoor irrigation systems shall be maintained and regularly inspected for leaks and efficient configurations of distribution. All turfgrass irrigation schedules shall comply with current recommendations established by the Department of Natural Resources Division of Water Resources.



(13) Building Inspections. Following any significant natural event, including earthquakes, especially those above magnitude 4 or 5, severe weather, or accidents that could compromise building integrity, it is imperative that all buildings undergo inspection. Licensed engineers should be engaged to review any mechanical, electrical, or structural concerns identified during these inspections. Any concerns or potential losses must be reported to Risk Management without delay.

(a) A post-earthquake inspection by a qualified engineer should be undertaken for facilities with any evidence of damage following an earthquake, regardless of magnitude or distance from the epicenter.

(b) Facilities within a 25 mile radius of the epicenter of an earthquake having a magnitude of 4.0 or greater shall be thoroughly examined by facilities personnel who are familiar with the building.

(c) Upon discovery of damage potentially caused by the earthquake, a qualified engineer should be retained to review and comment on the apparent damage.

(d) An earthquake sufficiently large to trigger a declared state of emergency within a specified region by the authority having jurisdiction will automatically trigger a prohibition of re-entry.

(e) All buildings within the region will require a post-earthquake assessment in accordance with ATC-20 Protocol. This assessment must be performed by individuals holding the appropriate credentials for such assessments. Following the assessment, the reviewer will placard the building with instructions regarding the potential for re-occupancy.

(f) Agencies should contact the division if they require any support or assistance with these inspections.

(14) Preventative Maintenance Audit and Inspections.

(a) Facilities shall receive a detailed and comprehensive preventative maintenance audit no less than every 2 years. The audit shall include HVAC filter condition, mechanical room cleanliness and condition, corrective and preventive maintenance programs, facility condition, ADA compliance, level of performance of the janitorial service, condition of the grounds, and a recent customer service survey to determine the level of user satisfaction with the facility, facility management and maintenance services.

(b) A copy of the Preventative Maintenance Audit shall be maintained at the facility. The audit will be reviewed and a copy sent to facility management.

(c) The Division of Risk Management sends out random building Risk Assessments that are required to be returned to the Risk Management Division of the Department of Government Operations. Corrections should be made in a timely manner as requested by Risk Management.

(d) The Preventative Maintenance Audit will verify that the facility is following the Risk Management requirements for insurability. See Rule R37-1.

(e) Periodic inspections of facilities may be requested by local fire departments and the identified deficiencies promptly corrected. These inspections and corrections shall be documented and kept on file at the facility.

(f) All state facilities over 3,000 sq. ft. or over \$1,500,000 in value will have an Audit performed. In the case of a complex with multiple buildings under 3,000 sq. ft., the entire complex will be assessed on a cumulative sq. ft. or value basis under one Audit.

(g) Agencies shall comply with specific recommendations made in the preventive maintenance audit report within 90 days. The division inspectors may schedule follow-up site visits to verify compliance. Failure to comply may result in reporting to the director.

(15) Indoor Air Quality and Energy Management.

(a) Indoor air quality shall be maintained within pertinent ASHRAE, OSHA, and State of Utah guidelines.

(b) All individual building utility costs such as gas, electric, and water at facilities shall be metered and reported back to the director by October 1 of each year and made available at the facility so that energy usage can be accurately determined and optimized.

(c) Based on the ongoing analysis of energy usage, appropriate energy conservation measures shall be budgeted for, implemented, and the resulting energy savings documented.

(16) Additional Resources. The following documents shall be on hand at the facility maintenance office or where applicable:

(a) SDS (Safety Data Sheets);

(b) Lead and Asbestos Awareness Program;

(c) A Laboratory Hygiene Program;

(d) A Lockout or Tagout Program;

(e) A Blood-Borne Pathogen Program;

(f) An Emergency Management Plan to include emergency evacuation and disaster recovery; and

(i) A Respirator Program;

(ii) Hearing Conservation Program;

(iii) Confined Space Permit Program; and

(iv) Hot Works Permit Program.

(17) Facility Condition Assessment Inspections. The objective data delivered by an FCA should accurately quantify and strategically prioritize deferred maintenance and capital renewal needs. When done properly, defensible information is received to advocate for limited investment resources and prioritizing within these limited budgets. These results can exist as a communication tool between those responsible for maintaining facilities and the decision makers they report to.

(a) Every five years the facility shall be inspected and evaluated by an Architect/Engineer (A/E), qualified third party or qualified in-house personnel to determine structural and infrastructural maintenance and preventive maintenance needs.

(b) The inspection and evaluation will include roofing, paving, structural integrity and building cladding and may include interior and exterior painting, foundations, walls, carpeting, windows, doors, ADA and OSHA compliance, brick work, landscaping, sidewalks, and exterior surface cleanliness.

(c) The mechanical and electrical evaluation shall include the HVAC systems, plumbing systems, security, fire prevention and warning systems, electrical distribution systems including emergency power systems.

NOTICES OF PROPOSED RULES

- (d) The inspection shall be documented and shall serve as a basis for budgeting for needed capital improvements.
- (e) A pre-survey questionnaire is required for all Facility Condition Assessments- whether it is done in-house or by a 3<sup>rd</sup> party.
- (f) The person conducting the Facility Condition Assessment will have access and be escorted by maintenance employees that are knowledgeable of each of the systems being inspected.
- (g) Facilities will be evaluated to Uniformat Levels 1-4 depending on the system. Each system will have a detailed narrative that describes the system, age and condition and recent repairs or upgrades.
- (h) Uniformat levels of inspection required:
  - A Substructure
    - A10 Foundations
      - A1010 Standard Foundations
      - A1020 Special Foundations
      - A1030 Slab on Grade
    - A20 Basement Construction
      - A2020 Basement Walls
  - B Shell
    - B10 Super Structure
      - B1010 Floor Construction
      - B1020 Roof Construction
      - B1030 Structural Frame
    - B20 Exterior Enclosure
      - B2010 Exterior Walls
      - B2020 Exterior Windows
      - B2030 Exterior Doors
      - B2034 Overhead Doors
    - B30 Roofing
      - B3010 Roof Coverings
      - B3020 Roof Openings
  - C Interiors
    - C10 Interior Construction
      - C1010 Partitions
      - C1020 Interior Doors
    - C20 Stairs
    - C30 Interior Finishes
      - C3010 Wall Finishes
      - C3020 Floor Finishes
      - C3030 Ceiling Finishes
  - D Services
    - D10 Conveying
      - D1010 Elevators & Lifts
        - D1011 Passenger Elevators
        - D1012 Freight Elevators
      - D1020 Escalators & Moving Walks
      - D1090 Other Conveying Systems
        - D1094 Conveyors
    - D20 Plumbing
      - D2010 Plumbing Fixtures
      - D2020 Domestic Water Distribution
      - D2030 Sanitary Waste
      - D2040 Rain Water Drainage
      - D2090 Other Plumbing Systems
    - D30 HVAC
      - D3010 Energy Supply
      - D3020 Heat Generating Systems
        - D3021 Boilers
        - D3030 Cooling Generating Systems
          - D3031 Chilled Water Systems
          - D3040 Distribution Systems
            - D3041 Air Distribution Systems
            - D3042 Exhaust Ventilation Systems
            - D3043 Steam Distribution Systems
            - D3044 Hot Water Distribution
            - D3045 Chilled Water Distribution Systems

D3050 Terminal & Package Units  
D3051 Terminal Self-Contained Units  
D3052 Package Units  
D3053 Split-Systems  
D3060 Controls & Instrumentation  
D3063 Heating/Cooling Air Handling Units  
D3068 Building Automation Systems  
D3090 Other HVAC Systems & Equipment  
D3093 Dust & Fume Collectors  
D40 Fire Protection  
D4010 Sprinklers  
D4020 Standpipes  
D4030 Fire Protection Specialties  
D4090 Other Fire Protection Systems  
D4091 Carbon Dioxide Systems  
D50 Electrical  
D5010 Electrical Service & Distribution  
D5020 Lighting & Branch Wiring  
D5022 Lighting Equipment  
D5030 Communications & Security  
D5037 Fire Alarm Systems  
D5090 Other Electrical System  
D5092 Emergency Light & Power Systems  
F Special Construction  
F10 Special Construction  
F1010 Special Structures  
G Building Sitework  
G20 Site Improvements  
G2010 Roadways  
G2020 Parking Lots  
G2030 Pedestrian Paving  
G2040 Site Development  
G30 Site Mechanical Utilities  
G3010 Water Supply  
G3020 Sanitary Sewer  
G3023 Septic Disposal Systems  
G3024 Lift Stations  
G3030 Storm Sewer  
G3034 Lift Stations  
G3040 Heating Distribution  
G3041 Steam Supply  
G3050 Cooling Distribution  
G3060 Fuel Distributions  
G40 Site Electrical Utilities  
G4010 Electrical Distribution  
G4020 Site Lighting  
G4024 Site Lighting Controls  
G4030 Site Communication & Security  
G4090 Other Site Electrical Utilities  
G4092 Site Emergency Power Generation

(i) Facility Condition Assessment will provide projections for a 10 year period. Immediate needs, 1-2 year needs, 3-5 year needs, 6-10 year needs. The main focus of FCA should be 1-5 year needs. Focus should be on major systems and utilities.

(j) All FCA information will be uploaded into a FCA Program as determined by the division, each state agency and institution will be given access. Capital Improvement requests will be requested and documented.

(k) All state facilities over 3,000 sq. ft. or over \$1,500,000 in value will have FCA's performed. In the case of a complex with multiple buildings under 3,000 sq. ft., the entire complex will be assessed on a cumulative sq. ft. or value basis under one FCA.

(l) FCA shall include Seismic information -- this shall be a preliminary seismic risk screening based on occupancy, construction year, and UBC seismic zone.

(m) Buildings constructed within the last 20 years are deemed sufficiently compliant with contemporary code provisions that earthquake assessment is unnecessary. For buildings more than 20 years old, routine maintenance FCA should include a Rapid Visual Screening (RVS) Assessment in accordance with FEMA 154 Protocol. This is a screening assessment generally meant to assess the potential for collapse in a significant earthquake. Facilities scoring lower than 2.0 (scoring is based on a range of 0 to 7.0) should be deemed

## NOTICES OF PROPOSED RULES

vulnerable and further, more thorough seismic assessment should be undertaken. ASTM E2018-15 should be used for a baseline for the condition assessment process.

**KEY: planning, public buildings, design, procurement**

**Date of Last Change:** ~~2025~~~~February 8, 2023~~

**Notice of Continuation:** February 7, 2024

**Authorizing, and Implemented or Interpreted Law:** 63A-5b-305; 63A-5b-402

### NOTICE OF SUBSTANTIVE CHANGE

**TYPE OF FILING:** Amendment

**Rule or section number:**

**R251-709**

**Filing ID: 57335**

#### Agency Information

<b>1. Title catchline:</b>	Corrections, Administration	
<b>Building:</b>	Administration Building	
<b>Street address:</b>	14717 S. Minuteman Dr.	
<b>City, state:</b>	Draper, UT 84020	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Dan Blanchard	801-400-7797	danblanchard@utah.gov
Tyler Johnson	385-228-9883	tajohnson@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

#### General Information

<b>2. Rule or section catchline:</b>
R251-709. Transportation of Inmates
<b>4. Purpose of the new rule or reason for the change:</b>
The purpose of this filing is to establish additional clarification to the requirement under Section R251-709-4 and position title under Section R251-709-6.
<b>5. Summary of the new rule or change:</b>
The amendment adds clarifications to the provision allowing an inmate's attorney to provide civilian clothing for inmates appearing in a jury trial. The changes include requiring advanced approval from the Department of Corrections; includes an attorney's legal staff; and provides an option to drop off the civilian clothing at the prison at least two working days before the trial begins.  Additionally, updates the position title in Section R251-709-6 to include the transportation unit supervisor.

#### Fiscal Information

<b>6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A. State budget:</b>
None – The language changes provide clarification and technical updates which do not add or remove provisions from the existing rule.
<b>B. Local governments:</b>
None – The language changes provide clarification and technical updates which do not add or remove provisions from the existing rule.

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

None – The language changes provide clarification and technical updates which do not add or remove provisions from the existing rule.

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

None – The language changes provide clarification and technical updates which do not add or remove provisions from the existing rule.

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

None – The language changes provide clarification and technical updates which do not add or remove provisions from the existing rule.

**F. Compliance costs for affected persons:**

None – The language changes provide clarification and technical updates which do not add or remove provisions from the existing rule.

**G. Regulatory Impact Summary Table** (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)**Regulatory Impact Summary Table**

<b>Fiscal Cost</b>	<b>FY2026</b>	<b>FY2027</b>	<b>FY2028</b>	<b>FY2029</b>	<b>FY2030</b>
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2026</b>	<b>FY2027</b>	<b>FY2028</b>	<b>FY2029</b>	<b>FY2030</b>
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Executive Director of the Department of Corrections has reviewed and approved this regulatory impact analysis.

**Citation Information****7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 63G-3-201

Section 64-13-10

**Public Notice Information****9. The public may submit written or oral comments to the agency identified in box 1.****A. Comments will be accepted until:**

09/02/2025

<b>10. This rule change MAY become effective on:</b>	09/09/2025
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jared Garcia, Executive Director	<b>Date:</b>	07/03/2025
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**R251. Corrections, Administration.****R251-709. Transportation of Inmates.****R251-709-1. Authority and Purpose.**

- (1) This rule is authorized under Sections 63G-3-201 and 64-13-10~~[, of the Utah Code]~~.
- (2) This rule addresses requirements regarding the transportation of inmates ~~[in order]~~ to provide for public safety and the security of inmates under the jurisdiction of the Department.

**R251-709-2. Definitions.**

"CUCF" means Central Utah Correctional Facility.

"Restraint" means handcuffs, handcuff cover, locking devices, leg irons, waist chains or other locking and restraining devices.

"Run" means any transport of an inmate off prison property.

"USCF" means Utah State Correctional Facility.

**R251-709-3. Policy.**

It is the policy of the Department that during the transportation of inmates the primary goal is to ensure adequate security to prevent escapes and to prevent harm to officers or other persons.

**R251-709-4. ~~[Court]~~Transportation.**

- (1) Inmates ~~[shall]~~ may not be allowed to visit with relatives, friends or members of the general public during transportation, while in a medical facility, courtroom, or while waiting, in transit to or from a medical facility or courtroom.
- (2) Requests from attorneys to detain or temporarily relocate inmates for consultations, visits with spouse, parents, or other family members, shall be denied unless the presiding judge specifically orders the visits.
- (3) Attorneys requesting consultation with inmates after a hearing may do so for five minutes in a court holding cell unless the presiding judge specifically orders otherwise.
- (4)(a) The inmate's attorney or an authorized representative of the attorney may provide civilian clothing for inmates appearing in a jury trial and may drop off the jury clothing to designated areas at USCF or CUCF. Transportation staff shall bring the jury clothing from those areas to the trial.
- (b) In certain circumstances, the inmate's attorney may bring jury clothing to the courthouse for the trial if approved by the presiding judge or the transportation run manager. In all cases, the transportation officer shall receive the inmate's jury clothing, search the clothing for contraband, and deliver the clothing to the inmate.

**R251-709-5. Medical Security Procedures.**

- (1) The transportation officers shall maintain custody of the inmate at all times during medical transportation runs. Exceptions may be made when dealing with inmates of the opposite sex during compromising procedures, ~~[(i.e.) such as]~~ pap smears~~[, and mammograms, etc.]~~. When an exception is made, the officers shall remain immediately outside the door ~~[(f)if there are no windows or other escape routes in the room]~~ or on the opposite side of the privacy curtain.
- (2) The transportation officers shall remove a particular restraint upon the doctor's orders if the removal of that restraint is required to perform a medical procedure; only that particular restraint shall be removed and it shall be immediately reapplied upon completion of the medical procedure.
- (3) Except in life-threatening emergencies, the transportation officers ~~[shall]~~ may not assist nor participate in any medical procedure or other assistance to patients or inmates.

**R251-709-6. Transporting by Air.**

When transporting by air, the transportation run manager~~[lieutenant, captain, or chief]~~ shall contact the transporting airline ~~[prior to]~~ before the transportation run to confirm their policies regarding inmate restraints, boarding and alighting policies, firearms on the aircraft, and other inmate transportation issues.

**KEY: prisons, corrections, security measures, inmate transportation**

**Date of Last Change: 2025~~[May 15, 2001]~~**

**Notice of Continuation: July 15, 2025**

**Authorizing, and Implemented or Interpreted Law: 64-13-10**

**NOTICE OF SUBSTANTIVE CHANGE****TYPE OF FILING:** Amendment**Rule or section number:****R315-306-1****Filing ID:** 57329**Agency Information**

<b>1. Title catchline:</b>	Environmental Quality, Waste Management and Radiation Control, Waste Management	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N. 1950 W.	
<b>City, state:</b>	Salt Lake City, UT	
<b>Mailing address:</b>	PO Box 144880	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4880	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tom Ball	385-454-5574	tball@utah.gov
Brian Speer	385-499-0010	bspeer@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information****2. Rule or section catchline:**

R315-306-1. Applicability

**4. Purpose of the new rule or reason for the change:**

Rule R315-319 established requirements for Coal Combustion Residual (CCR) facilities in Utah based on the corresponding federal rules published in Subpart D of 40 CFR 257 on April 17, 2015. On August 28, 2020, the federal requirements were amended, establishing a revised date of April 11, 2021 by which unlined surface impoundments and units that failed the aquifer location restriction must cease receiving waste and initiate closure or retrofit; including revisions to the alternative closure provisions that would grant certain facilities additional time to develop alternative capacity to manage their waste streams (including additional waste - primarily non-CCR wastewater - generated at the facility) before they must stop receiving waste and initiate closure of their surface impoundments. The annual groundwater monitoring and corrective action report requirements and the requirements for the publicly accessible internet sites were also amended. On November 12, 2020, EPA further amended the federal requirements allowing a limited number of facilities to demonstrate to EPA or a Participating State Director that, based on groundwater data and the design of a particular surface impoundment, the unit has and will continue to ensure there is no reasonable probability of adverse effects to human health and the environment such that these CCR surface impoundments should be allowed to continue to operate. On May 8, 2024 and March 14, 2025, the federal requirements were again amended, changing regulations for inactive surface impoundments at inactive electric utilities, referred to as "legacy CCR surface impoundments." These changes remove an exemption to the rules for legacy surface impoundments and tailor compliance deadlines for owners and operators of legacy CCR surface impoundments, except for the location restrictions and liner design criteria. The U.S. EPA and the Division of Waste Management and Radiation Control have not been able to identify any legacy CCR surface impoundments subject to regulation by the Division, but these rule amendments have been added. The August 28, 2020, November 12, 2020, May 8, 2024 and March 14, 2025 amendments to the federal requirements have been incorporated into R315-319 for Utah's CCR facilities.

**5. Summary of the new rule or change:**

This change amends Section R315-306-1 to state that the standards in Rule R315-306 do not apply to facilities regulated under Rule R315-319.

**Fiscal Information****6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A. State budget:**

It is not anticipated that this amendment will result in any cost or savings to the state budget because it does not add any new requirements or remove any existing requirements for state agencies. This amendment makes it clear that Rule R315-306 does not apply to facilities regulated under Rule R315-319.

**B. Local governments:**

It is not anticipated that this amendment will result in any cost or savings for local governments because it does not add any new requirements or remove any existing requirements for local governments. This amendment makes it clear that Rule R315-306 does not apply to facilities regulated under Rule R315-319.

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

It is not anticipated that this amendment will result in any cost or savings for small businesses because it does not add any new requirements or remove any existing requirements for small businesses. This amendment makes it clear that Rule R315-306 does not apply to facilities regulated under Rule R315-319.

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

It is not anticipated that this amendment will result in any cost or savings for non-small businesses because it does not add any new requirements or remove any existing requirements for non-small businesses. This amendment makes it clear that Rule R315-306 does not apply to facilities regulated under Rule R315-319.

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

It is not anticipated that this amendment will result in any cost or savings for persons other than small businesses, non-small businesses, state, or local governments because it does not add any new requirements or remove any existing requirements. This amendment makes it clear that Rule R315-306 does not apply to facilities regulated under Rule R315-319.

**F. Compliance costs for affected persons:**

There are no additional compliance costs for affected persons above the costs that already exist for persons who must comply with Rule R315-306 because the amendment does not add any new requirements.

**G. Regulatory Impact Summary Table** (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)

<b>Regulatory Impact Summary Table</b>					
<b>Fiscal Cost</b>	<b>FY2026</b>	<b>FY2027</b>	<b>FY2028</b>	<b>FY2029</b>	<b>FY2030</b>
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2026</b>	<b>FY2027</b>	<b>FY2028</b>	<b>FY2029</b>	<b>FY2030</b>
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0



Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

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

**Citation Information****7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 19-6-104	Section 19-6-108	
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**Public Notice Information****9. The public may submit written or oral comments to the agency identified in box 1.**

<b>A. Comments will be accepted until:</b>	09/02/2025
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<b>10. This rule change MAY become effective on:</b>	09/15/2025
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Director	<b>Date:</b>	07/10/2025
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**R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.****R315-306. Incinerator Standards.****R315-306-1. Applicability.**

- (1) These standards apply to any incinerator facility as specified in Subsections R315-306-2(1) and R315-306-3(1).
- (2) These standards do not apply to:
  - (a) an incineration facility ~~which~~ that is required to obtain a state or federal hazardous waste plan approval;
  - (b) a facility burning only untreated woodwaste;
  - (c) the flaring of gases recovered at a landfill; ~~or~~
  - (d) a facility that incinerates or cremates exclusively human or animal remains; or
  - (e) facilities regulated under Rule R315-319.

**KEY:** solid waste management, waste disposal

**Date of Last Change:** 2025~~January 16, 2024~~

**Notice of Continuation:** November 30, 2022

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

**NOTICE OF SUBSTANTIVE CHANGE**

<b>TYPE OF FILING:</b> Amendment		
<b>Rule or section number:</b>	<b>R315-307-1</b>	<b>Filing ID:</b> 57330

**Agency Information**

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

<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Tom Ball	385-454-5574	tball@utah.gov
Brian Speer	385-499-0010	bspeer@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information****2. Rule or section catchline:**

R315-307-1. Applicability

**4. Purpose of the new rule or reason for the change:**

Rule R315-319 established requirements for Coal Combustion Residual (CCR) facilities in Utah based on the corresponding federal rules published in Subpart D of 40 CFR 257 on April 17, 2015. On August 28, 2020, the federal requirements were amended, establishing a revised date of April 11, 2021 by which unlined surface impoundments and units that failed the aquifer location restriction must cease receiving waste and initiate closure or retrofit; including revisions to the alternative closure provisions that would grant certain facilities additional time to develop alternative capacity to manage their waste streams (including additional waste - primarily non-CCR wastewater - generated at the facility) before they must stop receiving waste and initiate closure of their surface impoundments. The annual groundwater monitoring and corrective action report requirements and the requirements for the publicly accessible internet sites were also amended. On November 12, 2020, EPA further amended the federal requirements allowing a limited number of facilities to demonstrate to EPA or a Participating State Director that, based on groundwater data and the design of a particular surface impoundment, the unit has and will continue to ensure there is no reasonable probability of adverse effects to human health and the environment such that these CCR surface impoundments should be allowed to continue to operate. On May 8, 2024 and March 14, 2025, the federal requirements were again amended, changing regulations for inactive surface impoundments at inactive electric utilities, referred to as "legacy CCR surface impoundments." These changes remove an exemption to the rules for legacy surface impoundments and tailor compliance deadlines for owners and operators of legacy CCR surface impoundments, except for the location restrictions and liner design criteria. The U.S. EPA and the Division of Waste Management and Radiation Control have not been able to identify any legacy CCR surface impoundments subject to regulation by the Division, but these rule amendments have been added. The August 28, 2020, November 12, 2020, May 8, 2024 and March 14, 2025 amendments to the federal requirements have been incorporated into R315-319 for Utah's CCR facilities.

**5. Summary of the new rule or change:**

This change amends Section 315-307-1 to state that the standards in Rule R315-307 do not apply to facilities regulated under Rule R315-319.

**Fiscal Information****6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A. State budget:**

It is not anticipated that this amendment will result in any cost or savings to the state budget because it does not add any new requirements or remove any existing requirements for state agencies. This amendment makes it clear that Rule R315-307 does not apply to facilities regulated under Rule R315-319.

**B. Local governments:**

It is not anticipated that this amendment will result in any cost or savings for local governments because it does not add any new requirements or remove any existing requirements for local governments. This amendment makes it clear that Rule R315-307 does not apply to facilities regulated under Rule R315-319.

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

It is not anticipated that this amendment will result in any cost or savings for small businesses because it does not add any new requirements or remove any existing requirements for small businesses. This amendment makes it clear that Rule R315-307 does not apply to facilities regulated under Rule R315-319.

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

It is not anticipated that this amendment will result in any cost or savings for non-small businesses because it does not add any new requirements or remove any existing requirements for non-small businesses. This amendment makes it clear that Rule R315-307 does not apply to facilities regulated under Rule R315-319.

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

It is not anticipated that this amendment will result in any cost or savings for persons other than small businesses, non-small businesses, state, or local governments because it does not add any new requirements or remove any existing requirements. This amendment makes it clear that Rule R315-307 does not apply to facilities regulated under Rule R315-319.

**F. Compliance costs for affected persons:**

There are no additional compliance costs for affected persons above the costs that already exist for persons who must comply with Rule R315-307 because the amendment does not add any new requirements.

**G. Regulatory Impact Summary Table** (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)

Regulatory Impact Summary Table					
Fiscal Cost	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

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

**Citation Information****7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 19-6-104	Section 19-6-108	Section 19-6-105
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**Public Notice Information****9. The public may submit written or oral comments to the agency identified in box 1.**

<b>A. Comments will be accepted until:</b>	09/02/2025
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<b>10. This rule change MAY become effective on:</b>	09/15/2025
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Director	<b>Date:</b>	07/10/2025
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**R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.****R315-307. Landtreatment Disposal Standards.****R315-307-1. Applicability.**

(1) These standards apply to any facility that engages in the landtreatment, landfarming, or landspreading disposal of solid waste in a manner that has a reasonable agronomic benefit to soils.

(2) These standards do not apply to:

(a) a facility that uses sewage sludge, woodwaste, or other primarily organic sludge in recycling operations as specified in Section R315-312-4;

(b) agricultural solid wastes resulting from the operation of a farm, including farm animal manure and agricultural residues; ~~or~~

(c) inert waste or demolition waste; or

(d) facilities regulated under Rule R315-319.

(3) The landtreatment of domestic sewage sludge and septage is exempt from the requirements of Rule R315-307 but is regulated under the applicable requirements of Rule R317-8 and 40 CFR 503 by the Utah Division of Water Quality.

(4) The owner or operator of a landtreatment disposal facility shall meet the standards for performance specified in Section R315-303-2.

(5) The owner or operator of a landtreatment disposal facility shall meet the location standards of Section R315-302-1.

**KEY: solid waste management, waste disposal**

**Date of Last Change:** ~~2025~~ ~~October 15, 2024~~

**Notice of Continuation:** November 30, 2022

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

**NOTICE OF SUBSTANTIVE CHANGE**

**TYPE OF FILING:** Amendment

**Rule or section number:** R315-310-12 **Filing ID:** 57331

**Agency Information**

Agency information:

1. Title catchline:	Environmental Quality, Waste Management and Radiation Control, Waste Management	
Building:	MASOB	
Street address:	195 N. 1950 W.	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	385-454-5574	tball@utah.gov
Brian Speer	385-499-0010	bspeer@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

**General Information**

<b>2. Rule or section catchline:</b>
R315-310-12. Contents of a Permit Application for a New or Expanding Coal Combustion Residual Landfill and Coal Combustion Residual Surface Impoundment

**4. Purpose of the new rule or reason for the change:**

Rule R315-319 established requirements for Coal Combustion Residual (CCR) facilities in Utah based on the corresponding federal rules published in Subpart D of 40 CFR 257 on April 17, 2015. On August 28, 2020, the federal requirements were amended, establishing a revised date of April 11, 2021 by which unlined surface impoundments and units that failed the aquifer location restriction must cease receiving waste and initiate closure or retrofit; including revisions to the alternative closure provisions that would grant certain facilities additional time to develop alternative capacity to manage their waste streams (including additional waste - primarily non-CCR wastewater - generated at the facility) before they must stop receiving waste and initiate closure of their surface impoundments. The annual groundwater monitoring and corrective action report requirements and the requirements for the publicly accessible internet sites were also amended. On November 12, 2020, EPA further amended the federal requirements allowing a limited number of facilities to demonstrate to EPA or a Participating State Director that, based on groundwater data and the design of a particular surface impoundment, the unit has and will continue to ensure there is no reasonable probability of adverse effects to human health and the environment such that these CCR surface impoundments should be allowed to continue to operate. On May 8, 2024 and March 14, 2025, the federal requirements were again amended, changing regulations for inactive surface impoundments at inactive electric utilities, referred to as "legacy CCR surface impoundments." These changes remove an exemption to the rules for legacy surface impoundments and tailor compliance deadlines for owners and operators of legacy CCR surface impoundments, except for the location restrictions and liner design criteria. The U.S. EPA and the Division of Waste Management and Radiation Control (division) have not been able to identify any legacy CCR surface impoundments subject to regulation by the Division, but these rule amendments have been added. The August 28, 2020, November 12, 2020, May 8, 2024 and March 14, 2025 amendments to the federal requirements have been incorporated into R315-319 for Utah's CCR facilities.

**5. Summary of the new rule or change:**

This change amends Section R315-310-12 to state that permit applications for a CCR landfill and surface impoundment must include the information required by Subsection R315-310-3(2) in addition to the other requirements listed.

**Fiscal Information****6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A. State budget:**

It is not anticipated that this amendment will result in any savings to the state budget because it does not remove any existing requirements for state agencies. The cost of reviewing the information that is required to be included with new permit applications will be minimal and will be absorbed by the current agency budget.

**B. Local governments:**

It is not anticipated that this amendment will result in any savings for local governments because it does not remove any existing requirements for local governments. Because any new requirements are administrative in nature and multiple options for compliance are available, local governments should be able to minimize costs by selecting the alternative that they determine to be most cost effective. There is no effective method for determining the costs because the division cannot predict which options each facility will choose.

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

It is not anticipated that this amendment will result in any savings for small businesses because it does not remove any existing requirements for small businesses. Because any new requirements are administrative in nature and multiple options for compliance are available, small businesses should be able to minimize costs by selecting the alternative that they determine to be most cost effective. There is no effective method for determining the costs because the division cannot predict which options each facility will choose.

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

It is not anticipated that this amendment will result in any savings for non-small businesses because it does not remove any existing requirements for non-small businesses. Because any new requirements are administrative in nature and multiple options for compliance are available, non-small businesses should be able to minimize costs by selecting the alternative that they determine to be most cost effective. There is no effective method for determining the costs because the division cannot predict which options each facility will choose.

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

It is not anticipated that this amendment will result in any savings for persons other than small businesses, non-small businesses, state, or local governments because it does not remove any existing requirements. Because any new requirements are administrative in nature and multiple options for compliance are available, persons other than small businesses, non-small businesses, state, or local government entities should be able to minimize costs by selecting the alternative that they determine to be most cost effective. There is no effective method for determining the costs because the division cannot predict which options each facility will choose.

**F. Compliance costs for affected persons:**

Because any new requirements are administrative in nature and multiple options for compliance are available, affected persons should be able to minimize compliance costs by selecting the alternative that they determine to be most cost effective. There is no effective method for determining the costs because the division cannot predict which options each facility will choose.

**G. Regulatory Impact Summary Table** (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)

Regulatory Impact Summary Table					
Fiscal Cost	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

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

**Citation Information**

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

Section 19-6-105	Section 19-6-108	Section 19-6-109
40 CFR 258		

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.**

**A. Comments will be accepted until:** 09/02/2025

**10. This rule change MAY become effective on:** 09/15/2025

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Director	<b>Date:</b>	07/10/2025
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**R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.**

**R315-310. Permit Requirements for Solid Waste Facilities.**

**R315-310-12. Contents of a Permit Application for a New or Expanding Coal Combustion Residual Landfill and Coal Combustion Residual Surface Impoundment.**

Each application for a coal combustion residual landfill and coal combustion residual surface impoundment permit shall contain the information required in Subsections R315-310-3(1)(a) and R315-310-3(1)(k), R315-310-3(2) and [Section] Rule R315-319.

**KEY: solid waste management, waste disposal**

**Date of Last Change: 2025[October 15, 2024]**

**Notice of Continuation: November 30, 2022**

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

**NOTICE OF SUBSTANTIVE CHANGE**

**TYPE OF FILING:** Amendment

**Rule or section number:**

**R315-311-2**

**Filing ID: 57332**

**Agency Information**

1. Title catchline:	Environmental Quality, Waste Management and Radiation Control, Waste Management	
Building:	MASOB	
Street address:	195 N. 1950 W.	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	385-454-5574	tball@utah.gov
Brian Speer	385-499-0010	bspeer@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

**General Information**

**2. Rule or section catchline:**

R315-311-2. Permit Modification, Renewal, or Termination

**4. Purpose of the new rule or reason for the change:**

Rule R315-319 established requirements for Coal Combustion Residual (CCR) facilities in Utah based on the corresponding federal rules published in Subpart D of 40 CFR 257 on April 17, 2015. On August 28, 2020, the federal requirements were amended, establishing a revised date of April 11, 2021 by which unlined surface impoundments and units that failed the aquifer location restriction must cease receiving waste and initiate closure or retrofit; including revisions to the alternative closure provisions that would grant certain facilities additional time to develop alternative capacity to manage their waste streams (including additional waste - primarily non-CCR wastewater - generated at the facility) before they must stop receiving waste and initiate closure of their surface impoundments. The annual groundwater monitoring and corrective action report requirements and the requirements for the publicly accessible internet sites were also amended. On November 12, 2020, EPA further amended the federal requirements allowing a limited number of facilities to demonstrate to EPA or a Participating State Director that, based on groundwater data and the design of a particular surface impoundment, the unit has and will continue to ensure there is no reasonable probability of adverse effects to human health and the environment such that these CCR surface impoundments should be allowed to continue to operate. On May 8, 2024 and March 14, 2025, the federal requirements were again amended, changing regulations for inactive surface impoundments at inactive electric utilities, referred to as "legacy CCR surface impoundments." These changes remove an exemption to the rules for legacy surface impoundments and tailor



compliance deadlines for owners and operators of legacy CCR surface impoundments, except for the location restrictions and liner design criteria. The U.S. EPA and the Division of Waste Management and Radiation Control (division) have not been able to identify any legacy CCR surface impoundments subject to regulation by the division, but these rule amendments have been added. The August 28, 2020, November 12, 2020, May 8, 2024, and March 14, 2025 amendments to the federal requirements have been incorporated into Rule R315-319 for Utah's CCR facilities.

#### **5. Summary of the new rule or change:**

This change amends Subsection R315-311-2(1)(b) to include facilities subject to Rule R315-319 among permitted facilities that the Director may subject minor permit modification requests to a 45 day public comment period. Additionally, the division is correcting formatting and typographical errors in the rule.

### **Fiscal Information**

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

##### **A. State budget:**

It is not anticipated that this amendment will result in any savings to the state budget because it does not remove any existing requirements for state agencies. The cost of conducting any potential 45 day comment periods will be minimal and will be absorbed by the current agency budget.

##### **B. Local governments:**

It is not anticipated that this amendment will result in any savings for local governments because it does not remove any existing requirements for local governments. Because any new requirements are administrative in nature and multiple options for compliance are available, local governments should be able to minimize costs by selecting the alternative that they determine to be most cost effective. There is no effective method for determining the costs because the division cannot predict which options each facility will choose.

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

It is not anticipated that this amendment will result in any savings for small businesses because it does not remove any existing requirements for small businesses. Because any new requirements are administrative in nature and multiple options for compliance are available, small businesses should be able to minimize costs by selecting the alternative that they determine to be most cost effective. There is no effective method for determining the costs because the division cannot predict which options each facility will choose.

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

It is not anticipated that this amendment will result in any savings for non-small businesses because it does not remove any existing requirements for non-small businesses. Because any new requirements are administrative in nature and multiple options for compliance are available, non-small businesses should be able to minimize costs by selecting the alternative that they determine to be most cost effective. There is no effective method for determining the costs because the division cannot predict which options each facility will choose.

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

It is not anticipated that this amendment will result in any savings for persons other than small businesses, non-small businesses, state, or local governments because it does not remove any existing requirements. Because any new requirements are administrative in nature and multiple options for compliance are available, persons other than small businesses, non-small businesses, state, or local government entities should be able to minimize costs by selecting the alternative that they determine to be most cost effective. There is no effective method for determining the costs because the division cannot predict which options each facility will choose.

##### **F. Compliance costs for affected persons:**

Because any new requirements are administrative in nature and multiple options for compliance are available, affected persons should be able to minimize compliance costs by selecting the alternative that they determine to be most cost effective. There is



no effective method for determining the costs because the division cannot predict which options each affected person will choose.

**G. Regulatory Impact Summary Table** (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)

<b>Regulatory Impact Summary Table</b>					
<b>Fiscal Cost</b>	<b>FY2026</b>	<b>FY2027</b>	<b>FY2028</b>	<b>FY2029</b>	<b>FY2030</b>
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2026</b>	<b>FY2027</b>	<b>FY2028</b>	<b>FY2029</b>	<b>FY2030</b>
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

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

#### Citation Information

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

Section 19-6-104	Section 19-6-105	Section 19-6-108
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#### Public Notice Information

**9. The public may submit written or oral comments to the agency identified in box 1.**

<b>A. Comments will be accepted until:</b>	09/02/2025
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<b>10. This rule change MAY become effective on:</b>	09/15/2025
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

#### Agency Authorization Information

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Director	<b>Date:</b>	07/10/2025
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**R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.**

**R315-311. Permit Approval For Solid Waste Disposal, Waste Tire Storage, Energy Recovery, And Incinerator Facilities.**

**R315-311-2. Permit Modification, Renewal, or Termination.**

(1) A permit may be considered for modification or termination at the request of any interested person, including the permittee, or upon the director's initiative in accordance with Section R315-124-5. Requests for permit modification or termination shall become effective only upon approval by the director and in accordance with Section R315-124-15.

(a) Minor modifications of a permit or plan of operation may not be subject to the 45 day public comment period as required by Section R315-311-3, unless obligatory under Subsection R315-311-2(1)(b). The [following] modifications listed in Subsections R315-311-

## NOTICES OF PROPOSED RULES

2(1)(a)(i) through R315-311-2(1)(a)(xvii) shall be considered minor, except that Subsections R315-311-2(1)(a)(vi) and R315-311-2(1)(a)(viii) are not minor modifications for coal combustion residual units.

- (i) Corrections of typographical errors.
- (ii) Changes to the name, address, or phone number of persons or agencies identified in the permit.
- (iii) Changes to administrative or informational items.
- (iv) Making changes to procedures for maintaining the operating record or the location where the operating record is kept.
- (v) Changes are made to provide for more frequent monitoring, reporting, sampling, or maintenance.
- (vi) A compliance date extension request is made for a new date not to exceed 120 days after the date specified in the approved permit.
- (vii) Changes are made to the expiration date of the permit to allow an earlier permit termination.
- (viii) Changes are made to the closure schedule for a unit, to the final closure schedule for the facility, or the closure period is extended.
- (ix) The director determines, in the case of a permit transfer application, that no change in the permit other than the change in the name of the owner or operator is necessary.
- (x) Equipment is upgraded or replaced with functionally equivalent components.
- (xi) Changes are made in sampling or analysis methods, procedures, or schedules and those changes conform with Rule R315-308 if sampling or analyzing groundwater.
- (xii) Changes are made in the construction or groundwater monitoring quality control quality assurance plans that will better certify that the specifications for construction, closure, sampling, or analysis will be met.
- (xiii) Changes are made in the facility plan of operation that conform to guidance or rules approved by the Waste Management and Radiation Control Board or provide more efficient waste handling or more effective waste screening.
- (xiv) Replacement of an existing monitoring well with a new well without changing the location.
- (xv) Changes are made in the design or depth of a monitoring well that provides more effective monitoring.
- (xvi) Changes are made in the statistical method used to statistically analyze the groundwater quality data that conform with Rule R315-308.
- (xvii) Changes are made in any permit condition that are more restrictive or provide more protection to health or the environment.
- (b) The director may subject any minor modification request, including facilities subject to regulation under Rule R315-319, to the 45 day public comment period described in Subsection R315-311-3(1) if justified by conditions and circumstances.
- (c) A permit modification that does not meet the requirements of Subsection R315-311-2(1)(a) for a minor modification shall be a major modification.
- (d) If the director determines that major modifications to a permit or plan of operation are justified, a new operational plan incorporating the approved modifications shall be prepared. The modifications shall be subject to the public comment period as specified in Section R315-311-3.
- (2) An application for permit renewal shall consist of the information required by Section R315-310-9. Upon receipt, the director will review the application in accordance with Section R315-124-3, and a draft permit or a notice of intent to deny will be prepared in accordance with Section R315-124-6. The current permit shall remain in effect until issuance or denial of a new permit. Each permit renewal shall be subject to the public comment requirements of Section R315-311-3.
- (3) The director shall notify, in writing, the owner or operator of any facility of intent to terminate a permit in accordance with Subsections R315-124-5(d) and R315-124-5(e). A permit may be terminated for:
  - (a) noncompliance with any condition of the permit;
  - (b) noncompliance with any applicable rule;
  - (c) failure in the application or during the approval or renewal process to disclose fully each relevant fact;
  - (d) misrepresentation by the owner or operator of any relevant facts at any time; or
  - (e) a determination that the solid waste activity or facility endangers human health or the environment.
- (4) The owner or operator of a facility may appeal any action associated with modification, renewal, or termination in accordance with Section R315-317-3, Title 63G Chapter 4, Administrative Procedures Act, and Rule R305-7.

**KEY: solid waste management, waste disposal**

**Date of Last Change: 2025~~October 15, 2024~~**

**Notice of Continuation: November 30, 2022**

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

### NOTICE OF SUBSTANTIVE CHANGE

**TYPE OF FILING:** Amendment

**Rule or section number:**

**R315-314-1**

**Filing ID: 57333**

**Agency Information**

1. Title catchline:	Environmental Quality, Waste Management and Radiation Control, Waste Management	
Building:	MASOB	
Street address:	195 N. 1950 W.	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	385-454-5574	tball@utah.gov
Brian Speer	385-499-0010	bspeer@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

**General Information**

<b>2. Rule or section catchline:</b>
R315-314-1. Applicability
<b>4. Purpose of the new rule or reason for the change:</b>
<p>Rule R315-319 established requirements for Coal Combustion Residual (CCR) facilities in Utah based on the corresponding federal rules published in Subpart D of 40 CFR 257 on April 17, 2015. On August 28, 2020, the federal requirements were amended, establishing a revised date of April 11, 2021 by which unlined surface impoundments and units that failed the aquifer location restriction must cease receiving waste and initiate closure or retrofit; including revisions to the alternative closure provisions that would grant certain facilities additional time to develop alternative capacity to manage their waste streams (including additional waste - primarily non-CCR wastewater - generated at the facility) before they must stop receiving waste and initiate closure of their surface impoundments. The annual groundwater monitoring and corrective action report requirements and the requirements for the publicly accessible internet sites were also amended. On November 12, 2020, EPA further amended the federal requirements allowing a limited number of facilities to demonstrate to EPA or a Participating State Director that, based on groundwater data and the design of a particular surface impoundment, the unit has and will continue to ensure there is no reasonable probability of adverse effects to human health and the environment such that these CCR surface impoundments should be allowed to continue to operate. On May 8, 2024 and March 14, 2025, the federal requirements were again amended, changing regulations for inactive surface impoundments at inactive electric utilities, referred to as "legacy CCR surface impoundments." These changes remove an exemption to the rules for legacy surface impoundments and tailor compliance deadlines for owners and operators of legacy CCR surface impoundments, except for the location restrictions and liner design criteria. The U.S. EPA and the Division of Waste Management and Radiation Control (division) have not been able to identify any legacy CCR surface impoundments subject to regulation by the Division, but these rule amendments have been added. The August 28, 2020, November 12, 2020, May 8, 2024, and March 14, 2025 amendments to the federal requirements have been incorporated into R315-319 for Utah's CCR facilities.</p>
<b>5. Summary of the new rule or change:</b>
<p>This change amends Subsection R315-314-1(2) to state that the requirements in Rule R315-314 do not apply to facilities regulated under Rule R315-319. Additionally, the division is correcting formatting and typographical errors in the rule.</p>

**Fiscal Information**

<b>6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A. State budget:</b>
<p>It is not anticipated that this amendment will result in any cost or savings to the state budget because it does not add any new requirements or remove any existing requirements for state agencies. This amendment makes it clear that Rule R315-314 does not apply to facilities regulated under Rule R315-319.</p>

**B. Local governments:**

It is not anticipated that this amendment will result in any cost or savings for local governments because it does not add any new requirements or remove any existing requirements for local governments. This amendment makes it clear that Rule R315-314 does not apply to facilities regulated under Rule R315-319.

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

It is not anticipated that this amendment will result in any cost or savings for small businesses because it does not add any new requirements or remove any existing requirements for small businesses. This amendment makes it clear that Rule R315-314 does not apply to facilities regulated under Rule R315-319.

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

It is not anticipated that this amendment will result in any cost or savings for non-small businesses because it does not add any new requirements or remove any existing requirements for non-small businesses. This amendment makes it clear that Rule R315-314 does not apply to facilities regulated under Rule R315-319.

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

It is not anticipated that this amendment will result in any cost or savings for persons other than small businesses, non-small businesses, state, or local governments because it does not add any new requirements or remove any existing requirements. This amendment makes it clear that Rule R315-314 does not apply to facilities regulated under Rule R315-319.

**F. Compliance costs for affected persons:**

There are no additional compliance costs for affected persons above the costs that already exist for persons who must comply with Rule R315-314 because the amendment does not add any new requirements.

**G. Regulatory Impact Summary Table** (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)

<b>Regulatory Impact Summary Table</b>					
<b>Fiscal Cost</b>	<b>FY2026</b>	<b>FY2027</b>	<b>FY2028</b>	<b>FY2029</b>	<b>FY2030</b>
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2026</b>	<b>FY2027</b>	<b>FY2028</b>	<b>FY2029</b>	<b>FY2030</b>
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

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

**Citation Information**

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

Section 19-6-104	Section 19-6-105	Section 19-6-108
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.**

<b>A. Comments will be accepted until:</b>	09/02/2025
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<b>10. This rule change MAY become effective on:</b>	09/15/2025
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Douglas J. Hansen, Director	<b>Date:</b>	07/10/2025
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**R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.****R315-314. Facility Standards for Piles Used for Storage and Treatment.****R315-314-1. Applicability.**

(1) The requirements of Rule R315-314 apply to ~~the following~~:

- (a) a pile of solid waste containing garbage that has been in place for more than seven days;
- (b) a pile of solid waste that does not contain garbage that has been in place for more than 90 days;
- (c) a pile of material derived from waste tires if more than 1,000 passenger tire equivalents are stored at one site; and
- (d) a pile of whole waste tires if more than 1,000 tires are stored at one site.

(2) The requirements of Rule R315-314 do not apply to ~~the following~~:

- (a) solid waste stored or treated in piles before recycling including compost piles and wood waste;
- (b) solid waste stored in fully enclosed buildings, provided that no liquids or sludge containing free liquids are added to the waste;
- (c) a pile of inert waste, as defined by Subsection R315-301-2(40); ~~and~~
- (d) a pile of whole waste tires located at a permitted waste disposal facility that is stored for not longer than one year; or
- (e) coal combustion residuals regulated under Rule R315-319.

(3) A site where crumb rubber, an ultimate product derived from waste tires, or waste tires that have been reduced to materials for beneficial use are stored for not longer than one year may receive a waiver of the requirements of Rule R315-314 from the director on a site specific basis.

(a) No waiver of the requirements of Rule R315-314 will be granted by the director without application from the owner or operator of the storage site.

(b) In granting a waiver of the requirements of Rule R315-314, the director may place conditions on the owner or operator of the storage site as to the sizes of piles, distance between piles, or other operational practices that will minimize fire danger or a risk to human health or the environment.

(c) The director may revoke a waiver of the ~~R~~ requirements of Rule R315-314 if the director finds that:

- (i) any condition of the waiver is not met; or
- (ii) the operation of the storage site presents a fire danger or a threat to human health or the environment.

**KEY: solid waste management, waste disposal**

**Date of Last Change:** 2025~~October 15, 2024~~

**Notice of Continuation:** November 30, 2022

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

**NOTICE OF SUBSTANTIVE CHANGE**

**TYPE OF FILING:** Amendment

<b>Rule or section number:</b>	<b>R315-319</b>	<b>Filing ID:</b> 57334
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**Agency Information**

<b>1. Title catchline:</b>	Environmental Quality, Waste Management and Radiation Control, Waste Management
<b>Building:</b>	MASOB

Street address:	195 N. 1950 W.	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 144880	
City, state and zip:	Salt Lake City, UT 84114-4880	
Contact persons:		
Name:	Phone:	Email:
Tom Ball	385-454-5574	tball@utah.gov
Brian Speer	385-499-0010	bspeer@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

### General Information

#### 2. Rule or section catchline:

R315-319. Coal Combustion Residuals Requirements

#### 4. Purpose of the new rule or reason for the change:

Rule R315-319 established requirements for Coal Combustion Residual (CCR) facilities in Utah based on the corresponding federal rules published in Subpart D of 40 CFR 257 on April 17, 2015. On August 28, 2020, the federal requirements were amended, establishing a revised date of April 11, 2021 by which unlined surface impoundments and units that failed the aquifer location restriction must cease receiving waste and initiate closure or retrofit; including revisions to the alternative closure provisions that would grant certain facilities additional time to develop alternative capacity to manage their waste streams (including additional waste - primarily non-CCR wastewater - generated at the facility) before they must stop receiving waste and initiate closure of their surface impoundments. The annual groundwater monitoring and corrective action report requirements and the requirements for the publicly accessible internet sites were also amended. On November 12, 2020, EPA further amended the federal requirements allowing a limited number of facilities to demonstrate to EPA or a Participating State Director that, based on groundwater data and the design of a particular surface impoundment, the unit has and will continue to ensure there is no reasonable probability of adverse effects to human health and the environment such that these CCR surface impoundments should be allowed to continue to operate. On May 8, 2024, and March 14, 2025, the federal requirements were again amended, changing regulations for inactive surface impoundments at inactive electric utilities, referred to as "legacy CCR surface impoundments." These changes remove an exemption to the rules for legacy surface impoundments and tailor compliance deadlines for owners and operators of legacy CCR surface impoundments, except for the location restrictions and liner design criteria. The U.S. EPA and the Division of Waste Management and Radiation Control (division) have not been able to identify any legacy CCR surface impoundments subject to regulation by the division, but these rule amendments have been added. The August 28, 2020, November 12, 2020, May 8, 2024, and March 14, 2025, amendments to the federal requirements have been incorporated into R315-319 for Utah's CCR facilities.

#### 5. Summary of the new rule or change:

R315-319-1(a) is amended to remove the limitation on rules applicable to Class I, II, and V landfills to be more comprehensive. R315-319-2 is amended by removing the exception for the Director to apply compliance date extensions differently than 40 CFR 256.26. R315-319-50(c) is amended so that it now applies to all inactive CCR surface impoundments at active electric utilities or independent power producers. R315-319-50(e) is being deleted because the corresponding federal regulation no longer exempts generators that ceased operating before October 19, 2015. R315-319-50(f) is amended to clarify that the rule does not apply to CCR generated at sites that are not electric utilities or independent power producers, but that it does apply to generators of electricity that use coal for 50% or more of its mass input. R315-319-51 is being amended to incorporate the Waste Management and Radiation Control Board's adoption of Rule R315-319 and published date. The following definitions are being added to Section R315-319-53: Eligible unlined CCR surface impoundment, technically feasible, and technically infeasible. Reference to Subsection 19-6-102(7) is being corrected to Subsection 19-6-102(6) in Subsection R315-319-53(a)(18). R315-319-71(a)(1)(i) is being deleted. This removes the option of a liner consisting of a minimum of two feet of compacted soil with a hydraulic conductivity of no more than  $1 \times 10^{-7}$  cm/sec. Requirements for an alternate liner demonstration are being added in Subsection R315-319-71(d). These requirements are optional. Requirements for additional information to be included in annual groundwater monitoring and corrective action reports are being added in Subsection R315-319-90(e)(6).



R315-319-91(d)(2) is being deleted because it is out of date and no longer needed.

R315-319-95(g)(5) is being amended to apply the provision more broadly and remove retrofit or closure requirements now addressed elsewhere in the rule.

The requirement found in Subsection R315-319-95(h)(2) to use background concentrations as the groundwater protection standard for constituents where a groundwater protection standard has not been established in Rule R315-308 is being replaced by a list of constituents.

Timeframes for certain inactive CCR surface impoundments are being added in R315-319-100(e).

R315-319-101(a)(1) is being amended to remove the October 19, 2015 compliance date and associated requirements and replace them with the date of April 11, 2021 by which an owner or operator of an unlined CCR surface impoundment shall stop placing waste into the impoundment and either retrofit or close the impoundment.

R315-319-101(b)(1)(i) is being amended and R315-319-101(b)(1)(ii) is being added to update the requirements for when the owner or operator of an existing CCR surface impoundment that has not demonstrated compliance with location standards shall stop placing waste in the impoundment.

R315-319-102(e)(4)(i) is being deleted because Rule R315-319 now applies to inactive CCR surface impoundments.

R315-319-102(k)(2)(ii)(A)(III) is being added as an additional action or activity that is considered initiation of retrofit activities.

Language is being added throughout Section R315-319-103 to clarify which rules in this section apply to CCR landfills and not CCR surface impoundments.

Rule citations are being added to the introductory paragraph of Section R315-319-103 to include all the requirements that owners and operators must meet.

Amendments are being made to Subsections R315-319-103(a) and R315-319-103(b) to clarify that they apply to CCR landfills.

R315-319-103(b)(2) and R315-319-103(b)(3) are being deleted because they apply to CCR surface impoundments and Subsection R315-319-103(b) applies to CCR landfills.

Site specific alternative deadlines to initiate closure of CCR surface impoundments are being added in Subsection R315-319-103(f).

R315-319-104(a)(3) is being deleted because Rule R315-319 now applies to inactive CCR surface impoundments.

The catchline for Section R315-319-105 is being amended to clarify that this section only contains recordkeeping requirements.

The lists of information that a facility must place in the facility operating record found in Subsections R315-319-105(f), R315-319-105(h), and R315-319-105(i) are being expanded to include additional information not previously included.

The catchline for Section R315-319-106 is being amended to clarify that this section only contains notification requirements.

The lists of information that a facility must provide to the Director found in Subsections R315-319-106(f), R315-319-106(h), and R315-319-106(i) are being expanded to include additional information not previously included.

The catchline for Section R315-319-107 is being amended to clarify that this section only contains requirements for information that must be posted on a publicly accessible internet site.

Language was added to Subsection R315-319-107(a) to clarify the accessibility requirements for data posted to the internet site.

The lists of information that a facility must post on the internet site found in Subsections R315-319-107(f), R315-319-107(h), and R315-319-107(i) are being expanded to include additional information not previously included.

Additionally, the division is correcting formatting and typographical errors in the rule.

### Fiscal Information

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

##### A. State budget:

It is not anticipated that this amendment will result in any savings to the state budget because it does not remove any existing requirements for state agencies. The cost of reviewing any information or data required to be submitted or posted by permittees will be minimal and will be absorbed by the current agency budget.

##### B. Local governments:

It is not anticipated that this amendment will result in any cost or savings for local governments because there are no local governments operating CCR units in Utah.

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

Because any new requirements are administrative in nature and multiple options for compliance are available, small businesses should be able to minimize costs by selecting the alternative that they determine to be most cost effective. There is no effective method for determining the costs because the division cannot predict which options each facility will choose. It is not anticipated that there will be any savings for small businesses because the amendments do not remove any existing requirements from the rules.

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

Because any new requirements are administrative in nature and multiple options for compliance are available, non-small businesses should be able to minimize costs by selecting the alternative that they determine to be most cost effective. There is no effective method for determining the costs because the division cannot predict which options each facility will choose. It is not anticipated that there will be any savings for non-small businesses because the amendments do not remove any existing requirements from the rules.

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

Because any new requirements are administrative in nature and multiple options for compliance are available, persons other than small businesses, non-small businesses, state, or local government entities should be able to minimize costs by selecting the alternative that they determine to be most cost effective. There is no effective method for determining the costs because the division cannot predict which options each person will choose. It is not anticipated that there will be any savings for persons other than small businesses, non-small businesses, state, or local governments because the amendments do not remove any existing requirements from the rules.

**F. Compliance costs for affected persons:**

Because any new requirements are administrative in nature and multiple options for compliance are available, affected persons should be able to minimize compliance costs by selecting the alternative that they determine to be most cost effective. There is no effective method for determining the costs because the division cannot predict which options each affected person will choose.

**G. Regulatory Impact Summary Table** (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)

Regulatory Impact Summary Table					
Fiscal Cost	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

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

**Citation Information****7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 19-6-108		
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**Public Notice Information****9. The public may submit written or oral comments to the agency identified in box 1.****A. Comments will be accepted until:**

09/02/2025

**10. This rule change MAY become effective on:**

09/15/2025

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

**Agency Authorization Information****Agency head or  
designee and title:**

Douglas J. Hansen, Director

**Date:**

07/10/2025

**R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.****R315-319. Coal Combustion Residuals Requirements.****R315-319-1. Permit Required.**

(a) ~~[All]~~ Landfills disposing of coal combustion residuals and surface impoundments containing coal combustion residuals shall have a permit for a Class I, II, or V landfill ~~[in accordance with Rules R315-302 through 307]~~ or a coal combustion residuals permit issued under Rule R315-319.

(b) An application for a permit for a coal combustion residual landfill or surface impoundment or multiple landfills and impoundments at a facility covered by one permit shall be made to the ~~[D]~~ director.

(c)(1) An application for a permit for a Coal Combustion Residue (CCR) unit shall contain the information required in Sections R315-319-60 through R315-319-107. No information needs be submitted for which the effective date in Sections R315-319-60 through R315-319-107 has not been reached ~~[at the time of]~~ when the application is submitted ~~[at]~~.

(2) ~~[All]~~ Information required in Sections R315-319-60 through R315-319-107 with an effective date that falls later than the application submittal required in Subsection R315-319-1(c)(1) shall be submitted within six months of the effective date of the requirement found in Sections R315-319-60 through R315-319-107.

(d) Permit application procedures shall follow the requirements of Sections R315-310-1 and R315-310-2.

(e) Permit transfers shall follow the procedures of Section R315-310-11.

(f) Permit applicants shall follow the notification requirements of Subsection R315-310-3(2).

(g) Permit approvals shall follow the requirements of Rule R315-311.

(h) The ~~[D]~~ director approvals required in Sections R315-319-60 through R315-319-107 are satisfied by the issuance of a permit by the ~~[D]~~ director.

**R315-319-2. Relation to Federal Coal Combustion Residuals ~~R~~ule regulation in 40 CFR 257.**

(a) The compliance dates in 40 CFR 257 Subpart D are not affected by the requirements in Rule R315-319 ~~[for director approval except as the extensions allowed by 40CFR 256.26 may be applied by the Director]~~.

**R315-319-50. Scope and Applicability.**

(a) Rule R315-319 establishes criteria for purposes of managing ~~[coal combustion residuals]~~ CCR in Utah.

(b) Rule R315-319 applies, except as provided in Subsection R315-319-50(i), to owners and operators of new and existing CCR units as defined in Subsection R315-319-53(a)(15). Rule R315-319 applies to any practice that does not meet the definition of a beneficial use of ~~[coal combustion residuals]~~ CCR.

(c) Rule R315-319 applies to inactive CCR surface impoundments ~~[that have not closed prior to the effective date of Rule R315-319]~~ at active electric utilities or independent power producers, regardless of the fuel currently used to produce electricity.

(d) Rule R315-319 does not apply to coal combustion residual landfills that have ceased receiving ~~[coal combustion residuals]~~ CCR ~~[prior to]~~ before October 19, 2015.

(e) ~~[Rule R315-319 does not apply to electric utilities or independent power producers that have ceased producing electricity prior to October 19, 2015]~~ Reserved.

(f) Rule R315-319 does not apply to:

(1) fly ash, bottom ash, boiler slag, and flue gas desulfurization materials, generated from burning exclusively coal to generate electricity at facilities that are not part of an electric utility or independent power producer;

(2) fly ash, bottom ash, boiler slag, and flue gas desulfurization materials generated primarily from the combustion of ~~[fuels, including other]~~ [fossil fuels] other than coal, for generating electricity, unless the fuel burned consists of more than 50% coal on a total heat input or mass input basis, whichever results in the greater mass feed rate of coal. ~~[Disposal of these solid wastes are covered by Rules R315-301 through 307.]~~

(g) Rule R315-319 does not apply to practices that meet the definition of a beneficial use of CCR ~~[coal combustion residuals]~~.

(h) Rule R315-319 does not apply to coal combustion residual placement at active or abandoned underground or surface coal mines.

(i) Rule R315-319 does not apply to Class I or V solid waste landfills that receive ~~[coal combustion residuals]~~ CCR.

**R315-319-51. Effective Date.**

The effective date of Rule R315-319 ~~[will be based on the approval of the Waste Management and Radiation Control Board after publication in the Utah State Bulletin]~~ is September 1, 2016.

**R315-319-52. Applicability of Other Rules and Regulations.**

(a) Compliance with the requirements of Sections R315-319-50 through R315-319-107 does not affect the need for the owner or operator of a ~~[coal combustion residuals]~~ CCR landfill, ~~[coal combustion residuals]~~ CCR surface impoundment, or lateral expansion of a ~~[coal combustion residuals]~~ CCR unit to comply with ~~[all]~~ other applicable federal, state, tribal, or local laws or other requirements.

(b) Any CCR landfill, CCR surface impoundment, or lateral expansion of a CCR unit continues to be subject to the requirements in Section R315-302-~~[2]~~ 1.

**R315-319-53. Definitions.**

(a) The ~~[following]~~ definitions in Subsections R315-319-53(a)(1) through R315-319-53(a)(71) apply to Rule R315-319. Terms not defined in Section R315-319-53 have the meaning given in Rule R315-301.

(1) "Acre foot" means the volume of one acre of surface area to a depth of one foot.

(2) "Active facility or active electric utilities or independent power producers" means any facility subject to the requirements of Sections R315-319-50 through R315-319-107 that is in operation on October 14, 2015. An electric utility or independent power producer is in operation if it is generating electricity that is provided to electric power transmission systems or to electric power distribution systems on or after October 14, 2015. An off-site disposal facility is in operation if it is accepting or managing CCR on or after October 14, 2015.

(3) "Active life or in operation" means the period of operation beginning with the initial placement of CCR in the CCR unit and ending at completion of closure activities in accordance with Section R315-319-102.

(4) "Active portion" means that part of the CCR unit that has received or is receiving CCR or non-CCR waste and that has not finished closure in accordance with Section R315-319-102.

(5) "Aquifer" means a geologic formation, group of formations, or portion of a formation capable of yielding usable quantities of groundwater to wells or springs.

(6) "Area-capacity curves" means graphic curves that readily show the reservoir water surface area, in acres, at different elevations from the bottom of the reservoir to the maximum water surface, and the capacity or volume, in acre-feet, of the water contained in the reservoir at various elevations.

(7) "Areas susceptible to mass movement" means those areas of influence, that is, areas characterized as having an active or substantial possibility of mass movement, where, because of natural or human-induced events, the movement of earthen material at, beneath, or adjacent to the CCR unit results in the downslope transport of soil and rock material by ~~[means of]~~ gravitational influence. Areas of mass movement include ~~[, but are not limited to,]~~ landslides, avalanches, debris slides and flows, soil fluctuation, block sliding, and rock fall.

(8) "Beneficial use of CCR" means the CCR meet each of the ~~[following]~~ conditions in Subsections R315-319-53(a)(8)(i) through R315-319-53(a)(8)(iv):

(i) the CCR shall provide a functional benefit;

(ii) the CCR shall substitute for the use of a virgin material, conserving natural resources that would otherwise need to be gotten through practices, such as extraction;

(iii) the use of the CCR shall meet relevant product specifications, regulatory standards or design standards if available, and if standards are not available, the CCR is not used in excess quantities; and

(iv) if unencapsulated use of CCR involves placement on the land of 12,400 tons or more in non-roadway applications, the user shall demonstrate and keep records, and provide the documentation upon request, that environmental releases to groundwater, surface water, soil and air are comparable to or lower than those from analogous products made without CCR, or that environmental releases to groundwater, surface water, soil and air will be at or below relevant regulatory and health-based benchmarks for human and ecological receptors during use in accordance with Rule R315-101.

(9) "Closed" means placement of CCR in a CCR unit has stopped, and the owner or operator has finished closure of the CCR unit in accordance with ~~S[ub]section~~ R315-319-102 and has initiated post-closure care in accordance with ~~S[ub]section~~ R315-319-104.

(10) "Coal combustion residuals (CCR)" means fly ash, bottom ash, boiler slag, and flue gas desulfurization materials generated from burning coal to generate electricity by electric utilities and independent power producers.

(11) "CCR fugitive dust" means solid airborne particulate matter that contains or is derived from CCR, emitted from any source other than a stack or chimney.

(12) "CCR landfill or landfill" means an area of land or an excavation that receives CCR and that is not a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground or surface coal mine, or a cave. For Rule R315-319, a CCR landfill also includes sand and gravel pits and quarries that receive CCR, CCR piles, and any practice that does not meet the definition of a beneficial use of CCR.

(13) "CCR pile or pile" means any non-containerized accumulation of solid, non-flowing CCR that is placed on the land. CCR that is beneficially used off-site is not a CCR pile.

(14) "CCR surface impoundment or impoundment" means a natural topographic depression, man-made excavation, or diked area, ~~[which]~~ that is designed to hold an accumulation of CCR and liquids, and the unit treats, stores, or disposes of CCR.

(15) "CCR unit" means any CCR landfill, CCR surface impoundment, or lateral expansion of a CCR unit, or a combination of more than one of these units, based on the context of the ~~[paragraph]~~ subsection in which it is used. This term includes both new and existing units, unless otherwise specified.

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

(17) "Displacement" means the relative movement of any two sides of a fault measured in any direction.

(18) "Disposal" is defined in Subsection 19-6-102([7]6), disposal does not include the storage or the beneficial use of CCR.

(19) "Downstream toe" means the junction of the downstream slope or face of the CCR surface impoundment with the ground surface.

(20) "Encapsulated beneficial use" means a beneficial use of CCR that binds the CCR into a solid matrix that minimizes its mobilization into the surrounding environment.

(21) "Eligible unlined CCR surface impoundment" means an existing CCR surface impoundment that:

(i) the owner or operator has documented that the CCR unit complies with the location restrictions specified under Sections R315-319-60 through R315-319-64;

(ii) the owner or operator has documented that the CCR unit complies with the periodic safety factor assessment requirements under Subsections R315-319-73(e) and R315-319-73(f); and

(iii) no constituent listed in Appendix IV to Rule R315-319 has been detected at a statistically significant level exceeding a groundwater protection standard defined under Subsection R315-319-95(h).

(2[4]2) "Existing CCR landfill" means a CCR landfill that receives CCR both before and after October 14, 2015, or for which construction began before October 14, 2015 and receives CCR on or after October 14, 2015. A CCR landfill has begun construction if the owner or operator has received the federal, state, and local approvals or permits necessary to begin physical construction and a continuous on-site, physical construction program had begun before October 14, 2015.

(2[2]3) "Existing CCR surface impoundment" means a CCR surface impoundment that receives CCR both before and after October 14, 2015, or for which construction began before October 14, 2015 and receives CCR on or after October 14, 2015. A CCR surface impoundment has begun construction if the owner or operator has received the federal, state, and local approvals or permits necessary to begin physical construction and a continuous on-site, physical construction program had begun October 14, 2015.

(2[3]4) "Facility" means the contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, disposing, or otherwise conducting solid waste management of CCR. A facility may consist of several treatment, storage, or disposal operational units, for example, one or more landfills, surface impoundments, or combinations of them.

(2[4]5) "Factor of safety,"[ ] "Safety factor," means the ratio of the forces tending to resist the failure of a structure to the forces tending to cause the failure as determined by accepted engineering practice.

(2[5]6) "Fault" means a fracture or a zone of fractures in any material along which strata on one side have been displaced with respect to that on the other side.

(2[6]7) "Flood hydrograph" means a graph showing, for a given point on a stream, the discharge, height, or other characteristic of a flood as a function of time.

(2[7]8) "Freeboard" means the vertical distance between the lowest point on the crest of the impoundment dike and the surface of the waste contained therein.

(2[8]9) "Free liquids" means liquids that readily separate from the solid portion of a waste under ambient temperature and pressure.

([29]30) "Groundwater" means water below the land surface in a zone of saturation.

(3[0]1) "Hazard potential classification" means the possible adverse incremental consequences that result from the release of water or stored contents due to failure of the diked CCR surface impoundment or mis-operation of the diked CCR surface impoundment or its appurtenances. The hazardous potential classifications include high hazard potential CCR surface impoundment, significant hazard potential CCR surface impoundment, and low hazard potential CCR surface impoundment, which terms mean:

(i) "High hazard potential CCR surface impoundment" means a diked surface impoundment where failure or mis-operation will probably cause loss of human life.

(ii) "Low hazard potential CCR surface impoundment" means a diked surface impoundment where failure or mis-operation results in no probable loss of human life and low economic or environmental losses, or both. Losses are principally limited to the surface impoundment owner's property.

(iii) "Significant hazard potential CCR surface impoundment" means a diked surface impoundment where failure or mis-operation results in no probable loss of human life, but can cause economic loss, environmental damage, disruption of lifeline facilities, or impact other concerns.

(3[4]2) "Height" means the vertical measurement from the downstream toe of the CCR surface impoundment at its lowest point to the lowest elevation of the crest of the CCR surface impoundment.

(3[2]3) "Holocene" means the most recent epoch of the Quaternary period, extending from the end of the Pleistocene Epoch, at 11,700 years before present, to present.

(3[3]4) "Hydraulic conductivity" means the rate that water can move through a permeable medium, that is, the coefficient of permeability.

(3[4]5) "Inactive CCR surface impoundment" means a CCR surface impoundment that no longer receives CCR on or after October 14, 2015 and still contains both CCR and liquids on or after October 14, 2015.

(3[5]6) "Incised CCR surface impoundment" means a CCR surface impoundment that is constructed by excavating entirely below the natural ground surface, holds an accumulation of CCR entirely below the adjacent natural ground surface, and does not consist of any constructed diked portion.

(3[6]7) "Inflow design flood" means the flood hydrograph that is used in the design or modification of the CCR surface impoundments and its appurtenant works.

(3[7]8) "In operation" see "Active life,"[ ]

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(3[8]9) "Karst terrain" means an area where karst topography, with its characteristic erosional surface and subterranean features, is developed as the result of dissolution of limestone, dolomite, or other soluble rock. Characteristic physiographic features present in karst terranes include ~~but are not limited to,~~ dolines, collapse shafts or sinkholes, sinking streams, caves, seeps, large springs, and blind valleys.

([39]40) "Lateral expansion" means a horizontal expansion of the waste boundaries of an existing CCR landfill or existing CCR surface impoundment made after October 14, 2015.

(4[0]1) "Liquefaction factor of safety" means the factor of safety, safety factor, determined using analysis under liquefaction conditions.

(4[1]2) "Lithified earth material" means any rock, including naturally occurring and naturally formed aggregates or masses of minerals or small particles of older rock that formed by crystallization of magma or by induration of loose sediments. This term does not include man-made materials, such as fill, concrete, and asphalt, or unconsolidated earth materials, soil, or regolith lying at or near the earth surface.

(4[2]3) "Maximum horizontal acceleration in lithified earth material" means the maximum expected horizontal acceleration at the ground surface as depicted on a seismic hazard map, with a 98% or greater probability that the acceleration will not be exceeded in 50 years, or the maximum expected horizontal acceleration based on a site-specific seismic risk assessment.

(4[3]4) "New CCR landfill" means a CCR landfill or lateral expansion of a CCR landfill that first receives CCR or begins construction after October 14, 2015. A new CCR landfill has begun construction if the owner or operator has received the federal, state, and local approvals or permits necessary to begin physical construction and a continuous on-site, physical construction program had begun after October 14, 2015. Overfills are also considered new CCR landfills.

(4[4]5) "New CCR surface impoundment" means a CCR surface impoundment or lateral expansion of an existing or new CCR surface impoundment that first receives CCR or begins construction after October 14, 2015. A new CCR surface impoundment has begun construction if the owner or operator has received the federal, state, and local approvals or permits necessary to begin physical construction and a continuous on-site, physical construction program had begun after October 14, 2015.

(4[5]6) "Operator" means the person responsible for the overall operation of a CCR unit.

(4[6]7) "Overfill" means a new CCR landfill constructed over a closed CCR surface impoundment.

(4[7]8) "Owner" means the person who owns a CCR unit or part of a CCR unit.

([48]49) "Poor foundation conditions" mean those areas where features exist that ~~indicate~~ show that a natural or human-induced event may result in inadequate foundation support for the structural components of an existing or new CCR unit. For example, failure to maintain static and seismic factors of safety as required in Subsections R315-319-73(e) and R315-319-74(e) would cause a poor foundation condition.

([49]50) "Probable maximum flood" means the flood that may be expected from the most severe combination of critical meteorologic and hydrologic conditions that are reasonably possible in the drainage basin.

(5[0]1) "Qualified person" means a person trained to recognize specific appearances of structural weakness and other conditions that are disrupting or have the potential to disrupt the operation or safety of the CCR unit by visual observation and, if applicable, to monitor instrumentation.

(5[1]2) "Qualified professional engineer" means an individual who is licensed in Utah as a ~~[P]~~professional ~~[E]~~engineer to practice one or more disciplines of engineering and who is qualified by education, technical knowledge, and experience to make the specific technical certifications required under Sections R315-319-50 through R315-319-107.

(5[2]3) "Recognized and generally accepted good engineering practices" means engineering maintenance or operation activities based on established codes, widely accepted standards, published technical reports, or a practice widely recommended throughout the industry. These practices generally detail approved ways to perform specific engineering, inspection, or mechanical integrity activities.

(5[3]4) "Retrofit" means to remove any CCR and contaminated soils and sediments from the CCR surface impoundment, and to ensure the unit complies with the requirements in Section R315-319-72.

(5[4]5) "Representative sample" means a sample of a universe or whole, for example, waste pile, lagoon, and groundwater, ~~which~~ that can be expected to exhibit the average properties of the universe or whole. See EPA publication SW-846, Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, Chapter 9, available at <http://www.epa.gov/epawaste/hazard/testmethods/sw846/online/index.htm>, for a discussion and examples of representative samples.

(5[5]6) "Run-off" means any rainwater, leachate, or other liquid that drains over land from any part of a CCR landfill or lateral expansion of a CCR landfill.

(5[6]7) "Run-on" means any rainwater, leachate, or other liquid that drains over land onto any part of a CCR landfill or lateral expansion of a CCR landfill.

(5[7]8) "Sand and gravel pit or quarry" means an excavation for the extraction of aggregate, minerals, or metals. The terms sand and gravel pit or quarry do not include subsurface or surface coal mines.

(5[8]9) "Seismic factor of safety" means the factor of safety, safety factor, determined using analysis under earthquake conditions using the peak ground acceleration for a seismic event with a 2% probability of exceedance in 50 years, equivalent to a return period of about 2,500 years, based on the ~~[U.S.]~~US Geological Survey (USGS) seismic hazard maps for seismic events with this return period for the region where the CCR surface impoundment is located.

([59]60) "Seismic impact zone" means an area having a 2% or greater probability that the maximum expected horizontal acceleration, expressed as a percentage of the earth's gravitational pull (g), will exceed 0.10 g in 50 years.

(6[0]1) "Slope protection" means engineered or non-engineered measures installed on the upstream or downstream slope of the CCR surface impoundment to protect the slope against wave action or erosion, including ~~but not limited to~~ rock riprap, wooden pile, or concrete revetments, vegetated wave berms, concrete facing, gabions, geotextiles, or fascines.

(6[1]2) "Solid waste management or management" means the systematic administration of the activities that provide for the collection, source separation, storage, transportation, processing, treatment, or disposal of solid waste.

(6[2]3) "State" means the State of Utah unless otherwise indicated.

(6[3]4) ["Director"] means the director of the Division of Waste Management and Radiation Control.

(6[4]5) "Static factor of safety" means the factor of safety, safety factor, determined using analysis under the long-term, maximum storage pool loading condition, the maximum surcharge pool loading condition, and under the end-of-construction loading condition.

(6[5]6) "Structural components" mean liners, leachate collection and removal systems, final covers, run-on and run-off systems, inflow design flood control systems, and any other component used in the construction and operation of the CCR unit that is necessary to ensure the integrity of the unit and that the contents of the unit are not released into the environment.

(67) "Technically feasible" means possible to do in a way that would likely be successful.

(68) "Technically infeasible" means not possible to do in a way that would likely be successful.

(6[6]9) "Unstable area" means a location that is susceptible to natural or human-induced events or forces capable of impairing the integrity, including structural components of the CCR unit that are responsible for preventing releases from the unit. Unstable areas can include poor foundation conditions, areas susceptible to mass movements, and karst terrains.

([67]70) "Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary. Upper limit is measured at a point nearest to the natural ground surface to which the aquifer rises during the wet season.

([68]71) "Waste boundary" means a vertical surface located at the hydraulically downgradient limit of the CCR unit. The vertical surface extends down into the uppermost aquifer.

### **R315-319-60. Location Restrictions.**

Placement above the uppermost aquifer.

(a) New CCR landfills, existing and new CCR surface impoundments, and ~~and~~ any lateral expansions of CCR units shall be constructed with a base that is located no less than 1.52 meters, five feet, above the upper limit of the uppermost aquifer, or shall demonstrate that there will not be an intermittent, recurring, or sustained hydraulic connection between any portion of the base of the CCR unit and the uppermost aquifer due to normal fluctuations in groundwater elevations, including the seasonal high water table. The owner or operator shall demonstrate by the dates specified in Subsection R315-319-60(c) that the CCR unit meets the minimum requirements for placement above the uppermost aquifer.

(b) The owner or operator of the CCR unit shall obtain a certification from a qualified professional engineer stating that the demonstration meets the requirements of Subsection R315-319-60(a).

(c) The owner or operator of the CCR unit shall complete the demonstration required by Subsection R315-319-60(a) by the date specified in either Subsection R315-319-60(c)(1) or R315-319-60(c)(2).

(1) For an existing CCR surface impoundment, the owner or operator shall complete the demonstration no later than October 17, 2018.

(2) For a new CCR landfill, new CCR surface impoundment, or any lateral expansion of a CCR unit, the owner or operator shall complete the demonstration no later than the date of initial receipt of CCR in the CCR unit.

(3) The owner or operator has completed the demonstration required by Subsection R315-319-60(a) when the demonstration has been submitted to and has received approval from the ~~the~~ director and is placed in the facility's operating record as required by Subsection R315-319-105(e).

(4) An owner or operator of an existing CCR surface impoundment who fails to demonstrate compliance with the requirements of Subsection R315-319-60(a) by the date specified in Subsection R315-319-60(c)(1) is subject to the requirements of Subsection R315-319-101(b)(1).

(5) An owner or operator of a new CCR landfill, new CCR surface impoundment, or any lateral expansion of a CCR unit who fails to make the demonstration showing compliance with the requirements of Subsection R315-319-60(a) is prohibited from placing CCR in the CCR unit.

(d) The owner or operator of the CCR unit shall comply with the recordkeeping requirements specified in Subsection R315-319-105(e), the notification requirements specified in Subsection R315-319-106(e), and the internet requirements specified in Subsection R315-319-107(e).

### **R315-319-62. Fault Areas.**

(a) New CCR landfills, existing and new CCR surface impoundments, and ~~and~~ any lateral expansions of CCR units ~~shall~~ may not be located within 60 meters, 200 feet, of the outermost damage zone of a fault that has had displacement in Holocene time unless the owner or operator demonstrates by the dates specified in Subsection R315-319-62(c) that an alternative setback distance of less than 60 meters, 200 feet, will prevent damage to the structural integrity of the CCR unit.

(b) The owner or operator of the CCR unit shall obtain a certification from a qualified professional engineer stating that the demonstration meets the requirements of Subsection R315-319-62(a).

(c) The owner or operator of the CCR unit shall complete the demonstration required by Subsection R315-319-62(a) by the date specified in either Subsection R315-319-62(c)(1) or R315-319-62(c)(2).

(1) For an existing CCR surface impoundment, the owner or operator shall complete the demonstration no later than October 17, 2018.

(2) For a new CCR landfill, new CCR surface impoundment, or any lateral expansion of a CCR unit, the owner or operator shall complete the demonstration no later than the date of initial receipt of CCR in the CCR unit.

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(3) The owner or operator has completed the demonstration required by Subsection R315-319-62(a) when the demonstration has been submitted to and has received approval from the ~~[D]~~director and the demonstration is placed in the facility's operating record as required by Subsection R315-319-105(e).

(4) An owner or operator of an existing CCR surface impoundment who fails to demonstrate compliance with the requirements of Subsection R315-319-62(a) by the date specified in Subsection R315-319-62(c)(1) is subject to the requirements of Subsection R315-319-101(b)(1).

(5) An owner or operator of a new CCR landfill, new CCR surface impoundment, or any lateral expansion of a CCR unit who fails to make the demonstration showing compliance with the requirements of Subsection R315-319-62~~[-]~~(a) is prohibited from placing CCR in the CCR unit.

(d) The owner or operator of the CCR unit shall comply with the recordkeeping requirements specified in Subsection R315-319-105(e), the notification requirements specified in Subsection R315-319-106(e), and the ~~[H]~~internet requirements specified in Subsection R315-319-107(e).

### **R315-319-63. Seismic Impact Zones.**

(a) New CCR landfills, existing and new CCR surface impoundments, and ~~[all]~~any lateral expansions of CCR units ~~[shall]~~may not be located in seismic impact zones unless the owner or operator demonstrates by the dates specified in Subsection R315-319-63(c) that ~~[all]~~the structural components including liners, leachate collection and removal systems, and surface water control systems, are designed to resist the maximum horizontal acceleration in lithified earth material for the site.

(b) The owner or operator of the CCR unit shall obtain a certification from a qualified professional engineer stating that the demonstration meets the requirements of Subsection R315-319-63(a).

(c) The owner or operator of the CCR unit shall complete the demonstration required by Subsection R315-319-63(a) by the date specified in either Subsection R315-319-63(c)(1) or R315-319-63(c)(2).

(1) For an existing CCR surface impoundment, the owner or operator shall complete the demonstration no later than October 17, 2018.

(2) For a new CCR landfill, new CCR surface impoundment, or any lateral expansion of a CCR unit, the owner or operator shall complete the demonstration no later than the date of initial receipt of CCR in the CCR unit.

(3) The owner or operator has completed the demonstration required by Subsection R315-319-63(a) when the demonstration has been submitted to and has received approval from the ~~[D]~~director and the demonstration is placed in the facility's operating record as required by Subsection R315-319-105(e).

(4) An owner or operator of an existing CCR surface impoundment who fails to demonstrate compliance with the requirements of Subsection R315-319-63(a) by the date specified in Subsection R315-319-63(c)(1) is subject to the requirements of Subsection R315-319-101(b)(1).

(5) An owner or operator of a new CCR landfill, new CCR surface impoundment, or any lateral expansion of a CCR unit who fails to make the demonstration showing compliance with the requirements of Subsection R315-319-63(a) is prohibited from placing CCR in the CCR unit.

(d) The owner or operator of the CCR unit shall comply with the recordkeeping requirements specified in Subsection R315-319-105(e), the notification requirements specified in Subsection R315-319-106(e), and the ~~[H]~~internet requirements specified in Subsection R315-319-107(e).

### **R315-319-64. Unstable Areas.**

(a) An existing or new CCR landfill, existing or new CCR surface impoundment, or any lateral expansion of a CCR unit ~~[shall]~~may not be located in an unstable area unless the owner or operator demonstrates by the dates specified in Subsection R315-319-64(d) that recognized and generally accepted good engineering practices have been incorporated into the design of the CCR unit to ensure that the integrity of the structural components of the CCR unit will not be disrupted.

(b) The owner or operator shall consider ~~[all of]~~the following factors in Subsections R315-319-64(b)(1) through R315-319-64(b)(3), at a minimum, when determining whether an area is unstable:

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

(2) On-site or local geologic or geomorphologic features; and

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

(c) The owner or operator of the CCR unit shall obtain a certification from a qualified professional engineer stating that the demonstration meets the requirements of Subsection R315-319-64(a).

(d) The owner or operator of the CCR unit shall complete the demonstration required by Subsection R315-319-64(a) by the date specified in either Subsection R315-319-64(d)(1) or R315-319-64(d)(2).

(1) For an existing CCR landfill or existing CCR surface impoundment, the owner or operator shall complete the demonstration no later than October 17, 2018.

(2) For a new CCR landfill, new CCR surface impoundment, or any lateral expansion of a CCR unit, the owner or operator shall complete the demonstration no later than the date of initial receipt of CCR in the CCR unit.

(3) The owner or operator has completed the demonstration required by Subsection R315-319-64(a) when the demonstration has been submitted to and has received approval from the ~~[D]~~director and the demonstration is placed in the facility's operating record as required by Subsection R315-319-105(e).

(4) An owner or operator of an existing CCR surface impoundment or existing CCR landfill who fails to demonstrate compliance with the requirements of Subsection R315-319-64(a) by the date specified in Subsection R315-319-64(d)(1) is subject to the requirements of Subsection R315-319-101(b)(1) or R315-319-101(d)(1), respectively.

(5) An owner or operator of a new CCR landfill, new CCR surface impoundment, or any lateral expansion of a CCR unit who fails to make the demonstration showing compliance with the requirements of Subsection R315-319-64(a) is prohibited from placing CCR in the CCR unit.

(e) The owner or operator of the CCR unit shall comply with the recordkeeping requirements specified in Subsection R315-319-105(e), the notification requirements specified in Subsection R315-319-106(e), and the ~~[d]~~internet requirements specified in Subsection R315-319-107(e).

**R315-319-70. Design Criteria for New CCR Landfills and Any Lateral Expansion of a CCR Landfill.**

(a)(1) New CCR landfills and any lateral expansion of a CCR landfill shall be designed, constructed, operated, and maintained with either a composite liner that meets the requirements of Subsection R315-319-70(b) or an alternative composite liner that meets the requirements in Subsection R315-319-70(c), and a leachate collection and removal system that meets the requirements of Subsection R315-319-70(d).

(2) ~~[Prior to]~~Before construction of an overfill the underlying surface impoundment shall meet the requirements of Subsection R315-319-102(d).

(b) A composite liner shall consist of two components; the upper component consisting of, at a minimum, a 30-mil geomembrane liner (GM), and the lower component consisting of at least a two-foot layer of compacted soil with a hydraulic conductivity of no more than  $1 \times 10^{-7}$  centimeters per second (cm/sec). GM components consisting of high density polyethylene (HDPE) shall be at least 60-mil thick. The GM or upper liner component shall be installed in direct and uniform contact with the compacted soil or lower liner component. The composite liner shall be:

(1) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients, including static head and external hydrogeologic forces, physical contact with the CCR or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(2) Constructed of materials that provide appropriate shear resistance of the upper and lower component interface to prevent sliding of the upper component including on slopes;

(3) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and

(4) Installed to cover ~~[all]~~any surrounding earth likely to be in contact with the CCR or leachate.

(c) If the owner or operator elects to install an alternative composite liner, ~~[all of]~~the ~~[following]~~requirements in Subsections R315-319-70(c)(1) through R315-319-70(c)(4) shall be met:

(1) An alternative composite liner shall consist of two components; the upper component consisting of, at a minimum, a 30-mil GM, and a lower component, that is not a geomembrane, with a liquid flow rate no greater than the liquid flow rate of two feet of compacted soil with a hydraulic conductivity of no more than  $1 \times 10^{-7}$  cm/sec. GM components consisting of ~~[high density polyethylene (HDPE)]~~ shall be at least 60-mil thick. If the lower component of the alternative liner is compacted soil, the GM shall be installed in direct and uniform contact with the compacted soil.

(2) The owner or operator shall obtain certification from a qualified professional engineer that the liquid flow rate through the lower component of the alternative composite liner is no greater than the liquid flow rate through two feet of compacted soil with a hydraulic conductivity of  $1 \times 10^{-7}$  cm/sec. The hydraulic conductivity for the two feet of compacted soil used in the comparison shall be no greater than  $1 \times 10^{-7}$  cm/sec. The hydraulic conductivity of any alternative to the two feet of compacted soil shall be determined using recognized and generally accepted methods. The liquid flow rate comparison shall be made using Equation 1 of Section R315-319-70, ~~[which]~~that is derived from Darcy's Law for gravity flow through porous media.

Equation 1

$$Q/A = q = k(h/t + 1)$$

Where[-]:

Q = flow rate, cubic centimeters/second;

A = surface area of the liner, squared centimeters;

q = flow rate per unit area, cubic centimeters/second/squared centimeter;

k = hydraulic conductivity of the liner, centimeters/second;

h = hydraulic head above the liner, centimeters; and

t = thickness of the liner, centimeters.

(3) The alternative composite liner shall meet the requirements specified in Subsections R315-319-70(b)(1) through R315-319-70(b)(4).

(d) The leachate collection and removal system shall be designed, constructed, operated, and maintained to collect and remove leachate from the landfill during the active life and post-closure care period. The leachate collection and removal system shall be:

(1) Designed and operated to maintain less than a 30-centimeter depth of leachate over the composite liner or alternative composite liner;

(2) Constructed of materials that are chemically resistant to the CCR and any non-CCR waste managed in the CCR unit and the leachate expected to be generated, and of sufficient strength and thickness to prevent collapse under the pressures exerted by overlying waste, waste cover materials, and equipment used at the CCR unit; and

(3) Designed and operated to minimize clogging during the active life and post-closure care period.

(e) ~~[Prior to]~~Before construction of the CCR landfill or any lateral expansion of a CCR landfill, the owner or operator shall obtain a certification from a qualified professional engineer that the design of the composite liner; or, if applicable, alternative composite liner; and the leachate collection and removal system meets the requirements of Section R315-319-70.

(f) Upon completion of construction of the CCR landfill or any lateral expansion of a CCR landfill, the owner or operator shall obtain a certification from a qualified professional engineer that the composite liner; or, if applicable, alternative composite liner; and the leachate collection and removal system has been constructed in accordance with the requirements of Section R315-319-70.

(g) The owner or operator of the CCR unit shall comply with the recordkeeping requirements specified in Subsection R315-319-105(f), the notification requirements specified in Subsection R315-319-106(f), and the ~~[H]~~internet requirements specified in Subsection R315-319-107(f).

#### **R315-319-71. Liner Design Criteria for Existing CCR Surface Impoundments.**

(a)(1) No later than October 17, 2016, the owner or operator of an existing CCR surface impoundment shall document whether or not ~~[such]~~the unit was constructed with~~[-any one of the following]:~~

(i) ~~Reserved~~~~[A liner consisting of a minimum of two feet of compacted soil with a hydraulic conductivity of no more than  $1 \times 10^{-7}$  cm/sec];~~

(ii) ~~[A]~~a composite liner that meets the requirements of Subsection R315-319-70(b); or

(iii) ~~[A]~~an alternative composite liner that meets the requirements of Subsection R315-319-70(c).

(2) The hydraulic conductivity of the compacted soil shall be determined using recognized and generally accepted methods.

(3) An existing CCR surface impoundment is considered to be an existing unlined CCR surface impoundment if either:

(i) The owner or operator of the CCR unit determines that the CCR unit is not constructed with a liner that meets the requirements of Subsection R315-319-71(a)(1)(i), R315-319-71(a)(1)(ii), or R315-319-71(a)(1)(iii); or

(ii) The owner or operator of the CCR unit fails to document whether the CCR unit was constructed with a liner that meets the requirements of Subsection R315-319-71~~[-](a)(1)(i)~~, R315-319-71(a)(1)(ii), or R315-319-71(a)(1)(iii).

(4) ~~[All e]~~Existing unlined CCR surface impoundments are subject to the requirements of Subsection R315-319-101(a).

(b) The owner or operator of the CCR unit shall obtain a certification from a qualified professional engineer attesting that the documentation as to whether a CCR unit meets the requirements of Subsection R315-319-71(a) is accurate.

(c) The owner or operator of the CCR unit shall comply with the recordkeeping requirements specified in Subsection R315-319-105(f), the notification requirements specified in Subsection R315-319-106(f), and the ~~[H]~~internet requirements specified in Subsection R315-319-107(f).

(d) Alternate Liner Demonstration. An owner or operator of a CCR surface impoundment constructed without a composite liner or alternate composite liner, as defined in Subsection R315-319-70(b) or R315-319-70(c), may submit an alternate liner demonstration to the director to demonstrate that, based on the construction of the unit and surrounding site conditions, there is no reasonable probability that continued operation of the surface impoundment will result in adverse effects to human health or the environment. The application and demonstration shall be submitted to the director no later than the relevant deadline in Subsection R315-319-71(d)(2). The director will act on the submissions in accordance with the procedures in Subsection R315-319-71(d)(2).

(1) Application and alternative liner demonstration submission requirements. To get approval under Subsection R315-319-71(d), the owner or operator of the CCR surface impoundment shall submit:

(i) an application. The owner or operator of the CCR surface impoundment shall submit a letter to the director, announcing their intention to submit a demonstration under Subsection R315-319-71(d)(1)(ii). The application shall include the location of the facility and identify the specific CCR surface impoundment for which the demonstration will be made. The letter shall include:

(A) a certification signed by the owner or operator that the CCR unit is in full compliance with Rule R315-319 except for Subsection R315-319-71(a)(1);

(B) documentation supporting the certification required under Subsection R315-319-71(d)(1)(i)(A) that includes:

(I) documentation that the groundwater monitoring network meets the requirements of Section R315-319-91. This shall include documentation that the existing network of groundwater monitoring wells is sufficient to ensure detection of any groundwater contamination resulting from the impoundment, based on direction of flow, well location, screening depth, and other relevant factors. At a minimum, the documentation shall include:

(1) maps of groundwater monitoring well locations in relation to the CCR units that depict the elevation of the potentiometric surface and the directions of groundwater flow across the site;

(2) well construction diagrams and drilling logs for each groundwater monitoring well;

(3) maps that characterize the direction of groundwater flow accounting for temporal variations; and

(4) any other data and analyses the owner or operator of the CCR surface impoundment relied upon when determining the design and location of the groundwater monitoring network;

(II) documentation that the CCR surface impoundment remains in detection monitoring pursuant to Section R315-319-94 as a precondition for submitting an application. This includes documentation that the groundwater monitoring program meets the requirements of Sections R315-319-93 and R315-319-94. This documentation includes data of constituent concentrations, summarized in table format, at each groundwater monitoring well monitored during each sampling event, and documentation of the most recent statistical tests conducted, analyses of the tests, and the rationale for the methods used in these comparisons. As part of this rationale, the owner or operator of the CCR surface impoundment shall provide the data and analyses relied upon to comply with each of the requirements of Rule R315-319;

(III) documentation that the unit meets the location restrictions under Sections R315-319-60 through R315-319-64;

(IV) the most recent structural stability assessment required in Subsection R315-319-73(d); and

(V) the most recent safety factor assessment required in Subsection R315-319-73(e);



(C) documentation of the design specifications for any engineered liner components, as well as the data and analyses the owner or operator of the CCR surface impoundment relied on when determining that the materials are suitable for use and that the construction of the liner is of good quality and in line with proven and accepted engineering practices;

(D) facilities with CCR surface impoundments located on properties adjacent to a water body shall demonstrate that there is no reasonable probability that a complete and direct transport pathway, not mediated by groundwater, can exist between the impoundment and any nearby water body. If the potential for a pathway is identified, then the unit would not be eligible to submit a demonstration. If ongoing releases are identified, the owner or operator of the CCR unit shall address these releases in accordance with Subsection R315-319-96(a); and

(E) upon submission of the application and any supplemental materials submitted in support of the application to the director, the owner or operator shall place the complete application in the facility's operating record as required in Subsection R315-319-105(f)(14).

(ii) Alternate Liner Demonstration Package. The completed alternate liner demonstration package shall be certified by a qualified professional engineer. The package shall present evidence to demonstrate that, based on the construction of the unit and surrounding site conditions, there is no reasonable probability that operation of the surface impoundment will result in concentrations of constituents listed in Appendix IV to Rule R315-319 in the uppermost aquifer at levels above a groundwater protection standard. For each line of evidence, as well as any other data and assumptions incorporated into the demonstration, the owner or operator of the CCR surface impoundment shall include documentation on how the data were collected and why these data and assumptions adequately reflect potential contaminant transport from that specific impoundment. The alternate liner demonstration at a minimum shall contain the lines of evidence listed in Subsection R315-319-71(d)(1)(ii)(A):

(A) Characterization of site hydrogeology. A characterization of the variability of site-specific soil and hydrogeology surrounding the surface impoundment that will control the rate and direction of contaminant transport from the impoundment. As part of this line of evidence the owner or operator shall provide:

(I) measurements of the hydraulic conductivity in the uppermost aquifer from each monitoring well associated with the impoundments and discussion of the methods used to obtain these measurements;

(II) measurements of the variability in subsurface soil characteristics collected from around the perimeter of the CCR surface impoundment to identify regions of substantially higher conductivity;

(III) documentation that the sampling methods used are in line with recognized and generally accepted practices that can provide data at a spatial resolution necessary to adequately characterize the variability of subsurface conditions that will control contaminant transport;

(IV) explanation of how the specific number and location of samples collected are sufficient to capture subsurface variability if:

(1) samples are advanced to a depth less than the top of the groundwater table or 20 feet beneath the bottom of the nearest water body, whichever is greater; or

(2) samples are spaced further apart than 200 feet around the impoundment perimeter; or

(3) both Subsections R315-319-71(d)(1)(ii)(A)(IV)(1) and R315-319-71(d)(1)(ii)(A)(IV)(2).

(V) a narrative description of site geological history; and

(VI) conceptual site models with cross-sectional depictions of the site environmental sequence stratigraphy that include, at a minimum:

(1) the relative location of the impoundment with depth of ponded water noted;

(2) monitoring wells with screening depth noted;

(3) depiction of the location of other samples used in the development of the model;

(4) the upper and lower limits of the uppermost aquifer across the site;

(5) the upper and lower limits of the depth to groundwater measured from monitoring wells if the uppermost aquifer is confined; and

(6) both the location and geometry of any nearby points of groundwater discharge or recharge, for example surface water bodies, with potential to influence groundwater depth and flow measured around the unit.

(B) Potential for infiltration. A characterization of the potential for infiltration through any soil-based liner components or naturally occurring soil that control release and transport of leachate, or both. Samples collected in the field for measurement of saturated hydraulic conductivity shall be sent to a certified laboratory for analysis under controlled conditions and analyzed using recognized and generally accepted methodology. Facilities shall document how the selected method is designed to simulate on-site conditions. As part of this line of evidence the owner or operator shall also provide documentation of:

(I) the location, number, depth, and spacing of samples relied upon is supported by the data collected in Subsection R315-319-71(d)(1)(ii)(A) and is sufficient to capture the variability of saturated hydraulic conductivity for the soil-based liner components or naturally occurring soil, or both;

(II) the liquid used to pre-hydrate the samples and measure long-term hydraulic conductivity reflects the pH and major ion composition of the CCR surface impoundment porewater;

(III) that samples intended to represent the hydraulic conductivity of naturally occurring soils, that is not mechanically compacted soil, are handled in a manner that will ensure the macrostructure of the soil is not disturbed during collection, transport, or analysis; and

(IV) any test for hydraulic conductivity relied upon includes, in addition to other relevant termination criteria specified by the method, criteria that equilibrium has been achieved between the inflow and outflow, within acceptable tolerance limits, for both electrical conductivity and pH.

(C) Mathematical model to estimate the potential for releases. Owners or operators shall incorporate the data collected for Subsections R315-319-71(d)(1)(ii)(A) and R315-319-71(d)(1)(ii)(B) into a mathematical model to calculate the potential groundwater concentrations that may result in downgradient wells as a result of the impoundment. Facilities shall also, where available, incorporate the national-scale data on constituent concentrations and behavior provided by the existing risk record. Application of the model shall account

for the full range of site current and potential future conditions at and around the site to ensure that high-end groundwater concentrations have been effectively characterized. The data and assumptions incorporated into the model shall be documented and justified.

(I) The models relied upon in Subsection R315-319-71(d)(1)(ii)(C) shall be well-established and validated, with documentation that can be made available for public review.

(II) The owner or operator shall use the models to demonstrate that, for each constituent in Appendix IV to Rule R315-319, there is no reasonable probability that the peak groundwater concentration that may result from releases to groundwater from the CCR surface impoundment throughout its active life will exceed the groundwater protection standard at the waste boundary.

(III) The demonstration shall include the peak groundwater concentrations modeled for the constituents in Appendix IV to Rule R315-319 attributed both to the impoundment in isolation and in addition to background.

(D) Upon submission of the alternative liner demonstration to the director, the owner or operator shall place the complete demonstration in the facility's operating record as required in Subsection R315-319-105(f)(15).

(2) Procedures for adjudicating requests.

(i) Deadline for application submission. The owner or operator shall submit the application under Subsection R315-319-71(d)(1)(i) to the director for approval no later than November 30, 2020.

(ii) Deadline for demonstration submission. If the application is approved the owner or operator shall submit the demonstration required under Subsection R315-319-71(d)(1)(ii) to the director for approval no later than November 30, 2021.

(A) Extension due to analytical limitations. If the owner or operator cannot meet the demonstration deadline due to analytical limitations related to the measurement of hydraulic conductivity, the owner or operator shall submit a request for an extension no later than September 1, 2021 that includes a summary of the data that have been analyzed to date for the samples responsible for the delay and an alternate timeline for completion that has been certified by the laboratory. The extension request shall include:

(I) a timeline of fieldwork to confirm that samples were collected expeditiously;

(II) a chain of custody documenting when samples were sent to the laboratory;

(III) written certification from the lab identifying how long it is projected for the tests to reach the relevant termination criteria related to solution chemistry; and

(IV) documentation of the progression toward the test termination metrics to date.

(B) Length of extension. If the extension is granted, the owner or operator will have 45 days beyond the timeframe certified by the laboratory to submit the completed demonstration.

(C) Extension due to analytical limitations for chemical equilibrium. If the measured hydraulic conductivity has not stabilized to within acceptable tolerance limits by the time the termination criteria for solution chemistry are met, the owner or operator shall submit a preliminary demonstration no later than September 1, 2021, with or without the onetime extension for analytical limitations.

(I) In this preliminary demonstration, the owner or operator shall submit a justification of how the bounds of uncertainty applied to the available measurements of hydraulic conductivity ensure that the final value is not underestimated.

(II) The director will review the preliminary demonstration to determine if it is complete and, if so, will propose to deny or to tentatively approve the demonstration. The proposed determination will be posted on the Utah Department of Environmental Quality's (UDEQ) website and will be available for public comment for 30 days. After consideration of the comments, the director will issue a decision on the application within four months of receiving a complete preliminary demonstration.

(III) Once the final laboratory results are available, the owner or operator shall submit a final demonstration that updates only the finalized hydraulic conductivity data to confirm that the model results in the preliminary demonstration are accurate.

(IV) Until the time that the director approves this final demonstration, the surface impoundment shall remain in detection monitoring or the demonstration will be denied.

(V) If the director tentatively approved the preliminary demonstration, the director will then take action on the newly submitted final demonstration using the procedures in Subsections R315-319-71(d)(2)(iv) through R315-319-71(d)(2)(vi).

(VI) The public will have 30 days to comment but may comment only on the new information presented in the complete final demonstration or in the director's tentative decision on the newly submitted demonstration.

(D) Upon submission of a request for an extension to the deadline for the demonstration due to analytical limitations pursuant to Subsection R315-319-71(d)(2)(ii)(A), the owner or operator shall place the alternative liner demonstration extension request in the facility's operating record as required in Subsection R315-319-105(f)(16).

(E) Upon submission of a preliminary demonstration pursuant to Subsection R315-319-71(d)(2)(ii)(C), the owner or operator shall place the preliminary demonstration in the facility's operating record as required in Subsection R315-319-105(f)(17).

(iii) Application review.

(A) The director will evaluate the application and may request additional information not required as part of the application as necessary to complete the review. Submission of a complete application will toll the facility's deadline to stop receipt of waste until issuance of a final decision under Subsection R315-319-71(d)(2)(iii)(C). Incomplete submissions will not toll the facility's deadline and will be rejected without further process.

(B) If the application is determined to be incomplete, the director will notify the facility. The owner or operator shall place the notification of an incomplete application in the facility's operating record as required in Subsection R315-319-105(f)(18).

(C) The director will publish a proposed decision on complete applications on the UDEQ website for a 20-day comment period. After consideration of the comments, the director will issue a decision on the application within 60 days of receiving a complete application.

(D) If the application is approved, the deadline to stop receipt of waste will be tolled until an alternate liner demonstration is determined to be incomplete or a final decision under Subsection R315-319-71(d)(2)(vi) is issued.

(E) If the surface impoundment is determined by the director to be ineligible to apply for an alternate liner demonstration, and the facility lacks alternative capacity to manage its CCR or non-CCR wastestreams, or both, the owner or operator may apply for an alternative

closure deadline in accordance with the procedures in Subsection R315-319-103(f). The owner or operator will be given four months from the date of the ineligibility determination to apply for the alternative closure provisions in either Subsection R315-319-103(f)(1) or R315-319-103(f)(2), during which time the facility's deadline to stop receipt of waste will be tolled.

(F) Upon receipt of a decision on the application pursuant to Subsection R315-319-71(d)(2)(iii)(C), the owner or operator shall place the decision on the application in the facility's operating record as required in Subsection R315-319-105(f)(19).

(iv) Demonstration review. The director will evaluate the demonstration package and may request additional information not required as part of the demonstration as necessary to complete the review. Submission of a complete demonstration package will continue to toll the facility's deadline to stop receipt of waste into that CCR surface impoundment until issuance of a final decision under Subsection R315-319-71(d)(2)(vi). Upon a determination that a demonstration is incomplete the tolling of the facility's deadline will stop and the submission will be rejected without further process.

(v) Proposed decision demonstration. The director will publish a proposed decision on a complete demonstration package on the UDEQ website for a 30-day comment period.

(vi) Final decision on demonstration. After consideration of the comments, the director will issue a decision on the alternate liner demonstration package within four months of receiving a complete demonstration package. Upon approval the facility may continue to operate the impoundment as long as the impoundment remains in detection monitoring. Upon detection of a statistically significant increase over background of a constituent listed on Appendix III to Rule R315-319, the facility shall proceed in accordance with the requirements of Subsection R315-319-71(d)(2)(ix).

(vii) Facility operating record requirements. Upon receipt of the final decision on the alternate liner demonstration pursuant to Subsection R315-319-71(d)(2)(vi), the owner or operator shall place the final decision in the facility's operating record as required in Subsection R315-319-105(f)(20).

(viii) Effect of Demonstration Denial. If the director determines that the CCR surface impoundment's alternate liner does not meet the standard for approval in Subsection R315-319-71(d), the owner or operator shall stop receipt of waste and initiate closure as determined in the director's decision. If the owner or operator needs to get alternate capacity, they may do so in accordance with the procedures in Section R315-319-103. The owner or operator will have four months from the date of director's decision to apply for an alternative closure deadline under either Subsection R315-319-103(f)(1) or R315-319-103(f)(2), during which time the facility's deadline to stop receipt of waste will be tolled.

(ix) Loss of authorization.

(A) The owner or operator of the CCR unit shall comply with the requirements of Subsections R315-319-71(d)(2)(ix)(A)(I) through R315-319-71(d)(2)(ix)(A)(V) upon determining that there is a statistically significant increase over background levels for one or more constituents listed in Appendix III to Rule R315-319 pursuant to Subsection R315-319-94(e);

(I) in addition to the requirements specified in Subsection R315-319-71(d), comply with the groundwater monitoring and corrective action procedures specified in Sections R315-319-90 through R315-319-98;

(II) submit the notification required by Subsection R315-319-94(e)(3) to the director within 14 days of placing the notification in the facility's operating record as required by Subsection R315-319-105(h)(5);

(III) conduct intra-well analysis on each downgradient well to identify any trends of increasing concentrations as required by Subsection R315-319-71(d)(2)(ix)(B). The owner and operator shall conduct the initial groundwater sampling and analysis for the constituents listed in Appendix IV to Rule R315-319 according to the timeframes specified in Subsection R315-319-95(b);

(IV) the owner or operator may elect to pursue an alternative source demonstration pursuant to Subsection R315-319-94(e)(2) that a source other than the CCR unit caused the contamination, or that the statistically significant increase resulted from error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality, provided that the alternative source demonstration shall be conducted simultaneously with the sampling and analysis required by Subsection R315-319-71(d)(2)(ix)(A)(III). If the owner or operator believes that a successful demonstration has been made, the demonstration shall be submitted to the director for review and approval. The owner or operator shall place the demonstration in the facility's operating record within the deadlines specified in Subsection R315-319-94(e)(2) and submit the demonstration to the director within 14 days of placing the demonstration in the facility's operating record; and

(V) the alternative source demonstration shall be posted to the facility's publicly accessible CCR internet site and submitted to the director within 14 days of completion. The director will publish a proposed decision on the alternative source determination on the UDEQ website for a 20-day comment period. After consideration of the comments, the director will issue a decision. If the alternative source demonstration is approved, the owner or operator may stop conducting the trend analysis and return to detection monitoring. If the alternative source demonstration is denied, the owner or operator shall either complete the trend analysis or stop receipt of waste. Upon receipt of the final decision on the alternative source demonstration, the owner or operator shall place the final decision in the facility's operating record as required by Subsection R315-319-105(f)(22).

(B) Trend analysis.

(I) Except as provided for in Subsection R315-319-95(c), the owner or operator shall collect a minimum of four independent samples from each well, background and downgradient, on a quarterly basis within the first year of triggering assessment monitoring and analyze each sample for the constituents listed in Appendix IV to Rule R315-319. Consistent with Subsection R315-319-95(b), the first samples shall be collected within 90 days of triggering assessment monitoring. After the initial year of sampling, the owner or operator shall then conduct sampling as prescribed in Subsection R315-319-95(d)(1). After each sampling event, the owner or operator shall update the trend analysis with the new sampling information.

(II) The owner or operator of the CCR surface impoundment shall apply an appropriate statistical test to identify any trends of increasing concentrations within the monitoring data. For normally distributed data sets, linear regression will be used to identify trends and determine the associated magnitude. For non-normally distributed data sets, the Mann-Kendall test will be used to identify trends and the Theil-Sen trend line will be used to determine the associated magnitude. If a trend is identified, the owner or operator of the CCR surface

impoundment will use the upper 95th percentile confidence limit on the trend line to estimate future concentrations. The owner or operator will project this trendline into the future for a duration set to the maximum number of years established in Section R315-319-102 for closure of the surface impoundment.

(III) A report of the results of each sampling event, as well as the final trend analysis, shall be posted to the facility's publicly accessible CCR internet site and submitted to the director within 14 days of completion. The trend analysis submitted to the director shall include the data relied upon by the facility to support the analysis. The director will publish a proposed decision on the trend analysis on the UDEQ website for a 30-day comment period. After consideration of the comments, the director will issue a decision. If the trend analysis shows the potential for a future exceedance of a groundwater protection standard, before the closure deadlines established in Section R315-319-102, the CCR surface impoundment shall stop receipt of waste by the date provided in the notice.

(C) If the trend analysis demonstrates the presence of a statistically significant trend of increasing concentration for one or more constituents listed in Appendix IV to Rule R315-319 with potential to result in an exceedance of any groundwater protection standard before closure is complete, or if at any time one or more constituents listed in Appendix IV to Rule R315-319 are detected at a statistically significant level above a groundwater protection standard, the authorization will be withdrawn. Subsection R315-319-96(g)(3) does not apply to CCR surface impoundments operating under an alternate liner demonstration. Upon receipt of a decision that the alternate liner demonstration has been withdrawn, the owner or operator shall place the decision in the facility's operating record as required by Subsection R315-319-105(f)(24).

(D) The burden remains on the owner or operator of the CCR surface impoundment to demonstrate that the CCR surface impoundment meets the conditions for authorization under this Section R315-319-71. If at any point, any condition for qualification under Section R315-319-71 has not been met, the director can without further notice or process deny or revoke the owner or operator's authorization under Subsection R315-319-71(d)(2)(ix).

### **R315-319-72. Liner Design Criteria for New CCR Surface Impoundments and Any Lateral Expansion of a CCR Surface Impoundment.**

(a) New CCR surface impoundments and lateral expansions of existing and new CCR surface impoundments shall be designed, constructed, operated, and maintained with either a composite liner or an alternative composite liner that meets the requirements of Subsection R315-319-70(b) or R315-319-70(c).

(b) Any liner specified in Section R315-319-72 shall be installed to cover ~~all~~ any surrounding earth likely to be in contact with CCR. Dikes ~~shall~~ may not be constructed on top of the composite liner.

(c) ~~Prior to~~ Before construction of the CCR surface impoundment or any lateral expansion of a CCR surface impoundment, the owner or operator shall obtain certification from a qualified professional engineer that the design of the composite liner or, if applicable, the design of an alternative composite liner complies with the requirements of Section R315-319-72.

(d) Upon completion, the owner or operator shall obtain certification from a qualified professional engineer that the composite liner or if applicable, the alternative composite liner has been constructed in accordance with the requirements of Section R315-319-72.

(e) The owner or operator of the CCR unit shall comply with the recordkeeping requirements specified in Subsection R315-319-105(f), the notification requirements specified in Subsection R315-319-106(f), and the ~~H~~ internet requirements specified in Subsection R315-319-107(f).

### **R315-319-73. Structural Integrity Criteria for Existing CCR Surface Impoundments.**

(a) The requirements of Subsections R315-319-73(a)(1) through ~~R315-319-73(a)(4)~~ apply to ~~all~~ existing CCR surface impoundments, except for those existing CCR surface impoundments that are incised CCR units. If an incised CCR surface impoundment is subsequently modified, ~~e.g.,~~ for example a dike is constructed, such that the CCR unit no longer meets the definition of an incised CCR unit, the CCR unit is subject to the requirements of Subsections R315-319-73(a)(1) through ~~R315-319-73(a)(4)~~.

(1) No later than, December 17, 2015, the owner or operator of the CCR unit shall place on or immediately adjacent to the CCR unit a permanent identification marker, at least six feet high showing the identification number of the CCR unit, if one has been assigned by the state, the name associated with the CCR unit and the name of the owner or operator of the CCR unit.

(2) Periodic hazard potential classification assessments.

(i) The owner or operator of the CCR unit shall conduct initial and periodic hazard potential classification assessments of the CCR unit according to the timeframes specified in Subsection R315-319-73(f). The owner or operator shall document the hazard potential classification of each CCR unit as either a high hazard potential CCR surface impoundment, a significant hazard potential CCR surface impoundment, or a low hazard potential CCR surface impoundment. The owner or operator shall also document the basis for each hazard potential classification.

(ii) The owner or operator of the CCR unit shall obtain a certification from a qualified professional engineer stating that the initial hazard potential classification and each subsequent periodic classification specified in Subsection R315-319-73(a)(2)(i) was conducted in accordance with the requirements of Section R315-319-73.

(3) Emergency Action Plan (EAP)

(i) Development of the plan. No later than April 17, 2017, the owner or operator of a CCR unit determined to be either a high hazard potential CCR surface impoundment or a significant hazard potential CCR surface impoundment under Subsection R315-319-73(a)(2) shall prepare and maintain a written EAP. At a minimum, the EAP shall:

(A) Define the events or circumstances involving the CCR unit that represent a safety emergency, along with a description of the procedures that will be followed to detect a safety emergency in a timely manner;

(B) Define responsible persons, their respective responsibilities, and notification procedures in the event of a safety emergency involving the CCR unit;

(C) Provide contact information of emergency responders;

(D) Include a map ~~[which] that~~ delineates the downstream area ~~[which] that~~ would be affected in the event of a CCR unit failure and a physical description of the CCR unit; and

(E) Include provisions for an annual face-to-face meeting or exercise between representatives of the owner or operator of the CCR unit and the local emergency responders.

(ii) Amendment of the plan.

(A) The owner or operator of a CCR unit subject to the requirements of Subsection R315-319-73(a)(3)(i) may amend the written EAP at any time provided the revised plan has been submitted to and has received approval from the ~~[D]~~director and placed in the facility's operating record as required by Subsection R315-319-105(f)(6). The owner or operator shall amend the written EAP when ~~[ever]~~ there is a change in conditions that would substantially affect the EAP in effect.

(B) The written EAP shall be evaluated, at a minimum, every five years to ensure the information required in Subsection R315-319-73(a)(3)(i) is accurate. As necessary, the EAP shall be updated and a revised EAP has been submitted to and has received approval from the ~~[D]~~director and placed in the facility's operating record as required by Subsection R315-319-105(f)(6).

(iii) Changes in hazard potential classification.

(A) If the owner or operator of a CCR unit determines during a periodic hazard potential assessment that the CCR unit is no longer classified as either a high hazard potential CCR surface impoundment or a significant hazard potential CCR surface impoundment, then the owner or operator of the CCR unit is no longer subject to the requirement to prepare and maintain a written EAP beginning on the date the periodic hazard potential assessment documentation has been submitted to and has received approval from the ~~[D]~~director and placed in the facility's operating record as required by Subsection R315-319-105(f)(5).

(B) If the owner or operator of a CCR unit classified as a low hazard potential CCR surface impoundment subsequently determines that the CCR unit is properly re-classified as either a high hazard potential CCR surface impoundment or a significant hazard potential CCR surface impoundment, then the owner or operator of the CCR unit shall prepare a written EAP for the CCR unit as required by Subsection R315-319-73(a)(3)(i) within six months of completing ~~[such] the~~ periodic hazard potential assessment and submit the EAP to the ~~[D]~~director for approval.

(iv) The owner or operator of the CCR unit shall obtain a certification from a qualified professional engineer stating that the written EAP, and any subsequent amendment of the EAP, meets the requirements of Subsection R315-319-73(a)(3) and submit the certification to the ~~[D]~~director.

(v) Activation of the EAP. The EAP shall be implemented once events or circumstances involving the CCR unit that represent a safety emergency are detected, including conditions identified during periodic structural stability assessments, annual inspections, and inspections by a qualified person.

(4) The CCR unit and surrounding areas shall be designed, constructed, operated, and maintained with vegetated slopes of dikes except for slopes ~~[which] that~~ are protected with an alternate form~~[e]s[]~~ of slope protection.

(b) The requirements of Subsections R315-319-73(c) through R315-319-73(e) apply to an owner or operator of an existing CCR surface impoundment that either:

(1) Has a height of five feet or more and a storage volume of 20 acre-feet or more; or

(2) Has a height of 20 feet or more.

(c)(1) No later than October 17, 2016, the owner or operator of the CCR unit shall compile and submit to the ~~[D]~~director a history of construction, which shall contain, to the extent feasible, the information specified in Subsections R315-319-73(c)(1)(i) through R315-319-73(c)(1)(xi).

(i) The name and address of the person~~[e]s[]~~ owning or operating the CCR unit; the name associated with the CCR unit; and the identification number of the CCR unit if one has been assigned by the state.

(ii) The location of the CCR unit identified on the most recent ~~[U.S. Geological Survey (USGS)]~~ [7 1/2] 7-1/2 minute or 15 minute topographic quadrangle map, or a topographic map of equivalent scale if a USGS map is not available.

(iii) A statement of the purpose for which the CCR unit is being used.

(iv) The name and size in acres of the watershed within which the CCR unit is located.

(v) A description of the physical and engineering properties of the foundation and abutment materials on which the CCR unit is constructed.

(vi) A statement of the type, size, range, and physical and engineering properties of the materials used in constructing each zone or stage of the CCR unit; the method of site preparation and construction of each zone of the CCR unit; and the approximate dates of construction of each successive stage of construction of the CCR unit.

(vii) At a scale that details engineering structures and appurtenances relevant to the design, construction, operation, and maintenance of the CCR unit, detailed dimensional drawings of the CCR unit, including a plan view and cross sections of the length and width of the CCR unit, showing ~~[all] the~~ zones, foundation improvements, drainage provisions, spillways, diversion ditches, outlets, instrument locations, and slope protection, in addition to the normal operating pool surface elevation and the maximum pool surface elevation following peak discharge from the inflow design flood, the expected maximum depth of CCR within the CCR surface impoundment, and any identifiable natural or man-made features that could adversely affect operation of the CCR unit due to malfunction or mis-operation.

(viii) A description of the type, purpose, and location of existing instrumentation.

(ix) Area-capacity curves for the CCR unit.

(x) A description of each spillway and diversion design features and capacities and calculations used in their determination.

(xi) The construction specifications and provisions for surveillance, maintenance, and repair of the CCR unit.

(xii) Any record or knowledge of structural instability of the CCR unit.

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(2) Changes to the history of construction. If there is a significant change to any information compiled under Subsection R315-319-73(c)(1), the owner or operator of the CCR unit shall update the relevant information, submit it to the [D]director, and place it in the facility's operating record as required by Subsection R315-319-105(f)(9).

(d) Periodic structural stability assessments.

(1) The owner or operator of the CCR unit shall conduct initial and periodic structural stability assessments and document whether the design, construction, operation, and maintenance of the CCR unit is consistent with recognized and generally accepted good engineering practices for the maximum volume of CCR and CCR wastewater [which]that can be impounded therein. The assessment shall, at a minimum, document whether the CCR unit has been designed, constructed, operated, and maintained with:

(i) Stable foundations and abutments;

(ii) Adequate slope protection to protect against surface erosion, wave action, and adverse effects of sudden drawdown;

(iii) Dikes mechanically compacted to a density sufficient to withstand the range of loading conditions in the CCR unit;

(iv) Vegetated slopes of dikes and surrounding areas except for slopes [which]that have an alternate form or forms of slope protection;

(v) A single spillway or a combination of spillways configured as specified in Subsection R315-319-73(d)(1)(v)(A). The combined capacity of [all]any spillways shall be designed, constructed, operated, and maintained to adequately manage flow during and following the peak discharge from the event specified in Subsection R315-319-73(d)(1)(v)(B).

(A) [All]Spillways shall be either:

(I) Of non-erodible construction and designed to carry sustained flows; or

(II) Earth- or grass-lined and designed to carry short-term, infrequent flows at non-erosive velocities where sustained flows are not expected.

(B) The combined capacity of [all]the spillways shall adequately manage flow during and following the peak discharge from a:

(I) Probable maximum flood (PMF) for a high hazard potential CCR surface impoundment; or

(II) 1000-year flood for a significant hazard potential CCR surface impoundment; or

(III) 100-year flood for a low hazard potential CCR surface impoundment.

(vi) Hydraulic structures underlying the base of the CCR unit or passing through the dike of the CCR unit that maintain structural integrity and are free of significant deterioration, deformation, distortion, bedding deficiencies, sedimentation, and debris [which]that may negatively affect the operation of the hydraulic structure; and

(vii) For CCR units with downstream slopes [which]that can be inundated by the pool of an adjacent water body, such as a river, stream, or lake, downstream slopes that maintain structural stability during low pool of the adjacent water body or sudden drawdown of the adjacent water body.

(2) The periodic assessment described in Subsection R315-319-73(d)(1) shall identify any structural stability deficiencies associated with the CCR unit in addition to recommending corrective measures. If a deficiency or a release is identified during the periodic assessment, the owner or operator unit shall remedy the deficiency or release as soon as feasible and prepare documentation detailing the corrective measures taken and submit the documentation to the [D]director.

(3) The owner or operator of the CCR unit shall obtain a certification from a qualified professional engineer stating that the initial assessment and each subsequent periodic assessment was conducted in accordance with the requirements of Section R315-319-73 and submit the certification to the [D]director.

(e) Periodic safety factor assessments.

(1) The owner or operator shall conduct and submit to the [D]director an initial and periodic safety factor assessments for each CCR unit and document whether the calculated factors of safety for each CCR unit achieve the minimum safety factors specified in Subsections R315-319-73(e)(1)(i) through R315-319-73(e)(1)(iv) for the critical cross section of the embankment. The critical cross section is the cross section anticipated to be the most susceptible of [all]the cross sections to structural failure based on appropriate engineering considerations, including loading conditions. The safety factor assessments shall be supported by appropriate engineering calculations.

(i) The calculated static factor of safety under the long-term, maximum storage pool loading condition shall equal or exceed 1.50.

(ii) The calculated static factor of safety under the maximum surcharge pool loading condition shall equal or exceed 1.40.

(iii) The calculated seismic factor of safety shall equal or exceed [1.00]one.

(iv) For dikes constructed of soils that have susceptibility to liquefaction, the calculated liquefaction factor of safety shall equal or exceed 1.20.

(2) The owner or operator of the CCR unit shall obtain a certification from a qualified professional engineer stating that the initial assessment and each subsequent periodic assessment specified in Subsection R315-319-73(e)(1) meets the requirements of Section R315-319-73.

(f) Timeframes for periodic assessments

(1) Initial assessments. Except as provided by Subsection R315-319-73(f)(2), the owner or operator of the CCR unit shall complete the initial assessments required by Subsections R315-319-73(a)(2), R315-319-73(d), and R315-319-73(e) no later than October 17, 2016. The owner or operator has completed an initial assessment when the owner or operator has and submit to the [D]director and placed the assessment required by Subsections R315-319-73(a)(2), R315-319-73(d), and R315-319-73(e) in the facility's operating record as required by Subsections R315-319-105(f)(5), R315-319-105(f)(10), and R315-319-105(f)(12).

(2) Use of a previously completed assessment[{}s{}]. The owner or operator of the CCR unit may elect to use a previously completed assessment to serve as the initial assessment required by Subsections R315-319-73(a)(2), R315-319-73(d), and R315-319-73(e) provided that the previously completed assessment[{}s{}]:

(i) [W]was completed no earlier than 42 months [prior to]before October 17, 2016; and

(ii) [M]meets the applicable requirements of Subsections R315-319-73[{}](a)(2), R315-319-73(d), and R315-319-73(e).

(3) Frequency for conducting periodic assessments. The owner or operator of the CCR unit shall conduct and complete and submit to the ~~(D)~~director the assessments required by Subsections R315-319-73~~[-](a)(2)~~, R315-319-73(d), and R315-319-73(e) every five years. The date of completing the initial assessment is the basis for establishing the deadline to complete the first subsequent assessment. If the owner or operator elects to use a previously completed assessment~~[(s)]~~ in lieu of the initial assessment as provided by Subsection R315-319-73~~[(f)(2)]~~, the date of the report for the previously completed assessment is the basis for establishing the deadline to complete the first subsequent assessment. The owner or operator may complete any required assessment ~~[prior to]~~before the required deadline provided the owner or operator submits the assessment to the ~~(D)~~director and places the completed assessment~~[(s)]~~ into the facility's operating record within a reasonable amount of time. In ~~[a]~~each case~~[s]~~, the deadline for completing subsequent assessments is based on the date of completing the previous assessment. For purposes of Subsection R315-319-73(f)(3), the owner or operator has completed an assessment when the relevant assessment~~[(s)]~~ required by Subsections R315-319-73~~[-](a)(2)~~, R315-319-73(d), and R315-319-73(e) has been submitted and approved by the ~~(D)~~director and has been placed in the facility's operating record as required by Subsections R315-319-105(f)(5), R315-319-105(f)(10), and R315-319-105(f)(12).

(4) Closure of the CCR unit. An owner or operator of a CCR unit who either fails to complete a timely safety factor assessment or fails to demonstrate minimum safety factors as required by Subsection R315-319-73~~[-](e)~~ is subject to the requirements of Subsection R315-319-101(b)(2).

(g) The owner or operator of the CCR unit shall comply with the recordkeeping requirements specified in Subsection R315-319-105(f), the notification requirements specified in Subsection R315-319-106(f), and the internet requirements specified in Subsection R315-319-107(f).

### **R315-319-81. Operating Criteria Run-On and Run-Off Controls for CCR Landfills.**

(a) The owner or operator of an existing or new CCR landfill or any lateral expansion of a CCR landfill shall design, construct, operate, and maintain:

(1) ~~[A]~~a run-on control system to prevent flow onto the active portion of the CCR unit during the peak discharge from a 24-hour, 25-year storm; and

(2) ~~[A]~~a run-off control system from the active portion of the CCR unit to collect and control at least the water volume resulting from a 24-hour, 25-year storm.

(b) Run-off from the active portion of the CCR unit shall be handled in accordance with the surface water requirements under Subsection R315-303-2(3).

(c) Run-on and run-off control system plan.

(1) Content of the plan. The owner or operator shall prepare initial and periodic run-on and run-off control system plans for the CCR unit according to the timeframes specified in Subsections R315-319-81(c)(3) and R315-319-81(c)(4). These plans shall document how the run-on and run-off control systems have been designed and constructed to meet the applicable requirements of Section R315-319-81. Each plan shall be supported by appropriate engineering calculations. The owner or operator has completed the initial run-on and run-off control system plan when the plan has been placed in the facility's operating record as required by Subsection R315-319-105(g)(3).

(2) Amendment of the plan. The owner or operator may amend the written run-on and run-off control system plan at any time provided the revised plan is placed in the facility's operating record as required by Subsection R315-319-105(g)(3). The owner or operator shall amend the written run-on and run-off control system plan when~~[ever]~~ there is a change in conditions that would substantially affect the written plan in effect.

(3) Timeframes for preparing the initial plan.

(i) Existing CCR landfills. The owner or operator of the CCR unit shall prepare the initial run-on and run-off control system plan no later than October 17, 2016.

(ii) New CCR landfills and any lateral expansion of a CCR landfill. The owner or operator shall prepare the initial run-on and run-off control system plan no later than the date of initial receipt of CCR in the CCR unit.

(4) Frequency for revising the plan. The owner or operator of the CCR unit shall prepare periodic run-on and run-off control system plans required by Subsection R315-319-81(c)(1) every five years. The date of completing the initial plan is the basis for establishing the deadline to complete the first subsequent plan. The owner or operator may complete any required plan ~~[prior to]~~before the required deadline provided the owner or operator places the completed plan into the facility's operating record within a reasonable amount of time. In ~~[a]~~each case~~[s]~~, the deadline for completing a subsequent plan is based on the date of completing the previous plan. For purposes of Subsection R315-319-81(c)(4), the owner or operator has completed a periodic run-on and run-off control system plan when the plan has been placed in the facility's operating record as required by Subsection R315-319-105(g)(3).

(5) The owner or operator shall obtain a certification from a qualified professional engineer stating that the initial and periodic run-on and run-off control system plans meet the requirements of Section R315-319-81.

(d) The owner or operator of the CCR unit shall comply with the recordkeeping requirements specified in Subsection R315-319-105(g), the notification requirements specified in Subsection R315-319-106(g), and the internet requirements specified in Subsection R315-319-107(g).

### **R315-319-82. Operating Criteria - Hydrologic and Hydraulic Capacity Requirements for CCR Surface Impoundments.**

(a) The owner or operator of an existing or new CCR surface impoundment or any lateral expansion of a CCR surface impoundment shall design, construct, operate, and maintain an inflow design flood control system as specified in Subsections R315-319-82(a)(1) and R315-319-82(a)(2).

(1) The inflow design flood control system shall adequately manage flow into the CCR unit during and following the peak discharge of the inflow design flood specified in Subsection R315-319-82(a)(3).

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(2) The inflow design flood control system shall adequately manage flow from the CCR unit to collect and control the peak discharge resulting from the inflow design flood specified in Subsection R315-319-82(a)(3).

(3) The inflow design flood is:

(i) ~~[F]~~for a high hazard potential CCR surface impoundment, as determined under Subsection R315-319-73(a)(2) or Subsection R315-319-74(a)(2), the ~~probable maximum flood~~PMF;

(ii) ~~[F]~~for a significant hazard potential CCR surface impoundment, as determined under Subsection R315-319-73(a)(2) or Subsection R315-319-74(a)(2), the 1,000-year flood;

(iii) ~~[F]~~for a low hazard potential CCR surface impoundment, as determined under Subsection R315-319-73(a)(2) or Subsection R315-319-74(a)(2), the 100-year flood; or

(iv) ~~[F]~~for an incised CCR surface impoundment, the 25-year flood.

(b) Discharge from the CCR unit shall be handled in accordance with the surface water requirements under Subsection R315-303-2(3).

(c) Inflow design flood control system plan.

(1) Content of the plan. The owner or operator shall prepare initial and periodic inflow design flood control system plans for the CCR unit according to the timeframes specified in Subsections R315-319-82~~[-](c)(3)~~ and R315-319-82(c)(4). These plans shall document how the inflow design flood control system has been designed and constructed to meet the requirements of Section R315-319-82. Each plan shall be supported by appropriate engineering calculations. The owner or operator of the CCR unit has completed the inflow design flood control system plan when the plan has been placed in the facility's operating record as required by Subsection R315-319-105(g)(4).

(2) Amendment of the plan. The owner or operator of the CCR unit may amend the written inflow design flood control system plan at any time provided the revised plan is placed in the facility's operating record as required by Subsection R315-319-105(g)(4). The owner or operator shall amend the written inflow design flood control system plan when~~ever~~ there is a change in conditions that would substantially affect the written plan in effect.

(3) Timeframes for preparing the initial plan.

(i) Existing CCR surface impoundments. The owner or operator of the CCR unit shall prepare the initial inflow design flood control system plan no later than October 17, 2016.

(ii) New CCR surface impoundments and any lateral expansion of a CCR surface impoundment. The owner or operator shall prepare the initial inflow design flood control system plan no later than the date of initial receipt of CCR in the CCR unit.

(4) Frequency for revising the plan. The owner or operator shall prepare periodic inflow design flood control system plans required by Subsection R315-319-82(c)(1) every five years. The date of completing the initial plan is the basis for establishing the deadline to complete the first periodic plan. The owner or operator may complete any required plan ~~[prior to]~~before the required deadline provided the owner or operator places the completed plan into the facility's operating record within a reasonable amount of time. In ~~at~~each case~~s~~, the deadline for completing a subsequent plan is based on the date of completing the previous plan. For purposes of Subsection R315-319-82(c)(4), the owner or operator has completed an inflow design flood control system plan when the plan has been placed in the facility's operating record as required by Subsection R315-319-105(g)(4).

(5) The owner or operator shall obtain a certification from a qualified professional engineer stating that the initial and periodic inflow design flood control system plans meet the requirements of Section R315-319-82.

(d) The owner or operator of the CCR unit shall comply with the recordkeeping requirements specified in Subsection R315-319-105(g), the notification requirements specified in Subsection R315-319-106(g), and the internet requirements specified in Subsection R315-319-107(g).

### **R315-319-84. Operating Criteria - Inspection Requirements for CCR Landfills.**

(a) Inspections by a qualified person.

(1) ~~[All]~~CCR landfills and any lateral expansion of a CCR landfill shall be examined by a qualified person~~[as follows]~~:

(i) ~~[A]~~at intervals not exceeding seven days, inspect for any appearances of actual or potential structural weakness and other conditions ~~[which]~~that are disrupting or have the potential to disrupt the operation or safety of the CCR unit; and

(ii) ~~[F]~~the results of the inspection by a qualified person shall be recorded in the facility's operating record as required by Subsection R315-319-105(g)(8).

(2) Timeframes for inspections by a qualified person.

(i) Existing CCR landfills. The owner or operator of the CCR unit shall initiate the inspections required under Subsection R315-319-84(a) no later than October 19, 2015.

(ii) New CCR landfills and any lateral expansion of a CCR landfill. The owner or operator of the CCR unit shall initiate the inspections required under Subsection R315-319-84(a) upon initial receipt of CCR by the CCR unit.

(b) Annual inspections by a qualified professional engineer.

(1) Existing and new CCR landfills and any lateral expansion of a CCR landfill shall be inspected on a periodic basis by a qualified professional engineer to ensure that the design, construction, operation, and maintenance of the CCR unit is consistent with recognized and generally accepted good engineering standards. The inspection shall, at a minimum, include:

(i) ~~[A]~~a review of available information regarding the status and condition of the CCR unit, including~~[, but not limited to,]~~ files available in the operating record, ~~[e.g.]~~for example, the results of inspections by a qualified person, and results of previous annual inspections; and

(ii) ~~[A]~~a visual inspection of the CCR unit to identify signs of distress or malfunction of the CCR unit.

(2) Inspection report. The qualified professional engineer shall prepare a report following each inspection that addresses~~[the following]~~:



(i) ~~[A]~~any changes in geometry of the structure since the previous annual inspection;  
 (ii) ~~[F]~~the approximate volume of CCR contained in the unit ~~when it was inspected~~~~[at the time of the inspection]~~;  
 (iii) ~~[A]~~any appearances of an actual or potential structural weakness of the CCR unit, in addition to any existing conditions that are disrupting or have the potential to disrupt the operation and safety of the CCR unit; and  
 (iv) ~~[A]~~any other change~~(s)~~ ~~[which]~~~~that~~ may have affected the stability or operation of the CCR unit since the previous annual inspection.

(3) Timeframes for conducting the initial inspection.

(i) Existing CCR landfills. The owner or operator of the CCR unit shall complete the initial inspection required by Subsections R315-319-84(b)(1) and R315-319-85(b)(2) no later than January 18, 2016.

(ii) New CCR landfills and any lateral expansion of a CCR landfill. The owner or operator of the CCR unit shall complete the initial annual inspection required by Subsections R315-319-84(b)(1) and R315-319-84(b)(2) no later than 14 months following the date of initial receipt of CCR in the CCR unit.

(4) Frequency of inspections. The owner or operator of the CCR unit shall conduct the inspection required by Subsections R315-319-84(b)(1) and R315-319-84(b)(2) on an annual basis. The date of completing the initial inspection report is the basis for establishing the deadline to complete the first subsequent inspection. Any required inspection may be conducted ~~[prior to]~~before the required deadline provided the owner or operator places the completed inspection report into the facility's operating record within a reasonable amount of time. In ~~[a]~~each case[s], the deadline for completing subsequent inspection reports is based on the date of completing the previous inspection report. For purposes of Section R315-319-84, the owner or operator has completed an inspection when the inspection report has been placed in the facility's operating record as required by Subsection R315-319-105(g)(9).

(5) If a deficiency or release is identified during an inspection, the owner or operator shall remedy the deficiency or release as soon as feasible and prepare documentation detailing the corrective measures taken.

(c) The owner or operator of the CCR unit shall comply with the recordkeeping requirements specified in Subsection R315-319-105(g), the notification requirements specified in Subsection R315-319-106(g), and the internet requirements specified in Subsection R315-319-107(g).

#### **R315-319-90. Groundwater Monitoring and Corrective Action - Applicability.**

(a) Except as provided for in S~~[ub]~~section R315-319-100 for inactive CCR surface impoundments, ~~[a]~~CCR landfills, CCR surface impoundments, and lateral expansions of CCR units are subject to the groundwater monitoring and corrective action requirements under S~~[ub]~~sections R315-319-90 through R315-319-98.

(b) Initial timeframes.

(1) Existing CCR landfills and existing CCR surface impoundments. No later than October 17, 2017, the owner or operator of the CCR unit shall be in compliance with the ~~[following]~~ groundwater monitoring requirements listed in Subsections R315-319-90(b)(1)(i) through R315-319-90(b)(1)(iv):

(i) ~~[I]~~install the groundwater monitoring system as required by S~~[ub]~~section R315-319-91;

(ii) ~~[D]~~develop the groundwater sampling and analysis program to include selection of the statistical procedures to be used for evaluating groundwater monitoring data as required by S~~[ub]~~section R315-319-93;

(iii) ~~[I]~~initiate the detection monitoring program to include obtaining a minimum of eight independent samples for each background and downgradient well as required by Subsection R315-319-94(b); and

(iv) ~~[B]~~begin evaluating the groundwater monitoring data for statistically significant increases over background levels for the constituents listed in ~~[a]~~Appendix III ~~[e]~~to Rule R315-319 as required by S~~[ub]~~section R315-319-94.

(2) New CCR landfills, new CCR surface impoundments, and ~~[a]~~lateral expansions of CCR units. ~~[Prior to]~~Before initial receipt of CCR by the CCR unit, the owner or operator shall be in compliance with the groundwater monitoring requirements specified in Subsections R315-319-90(b)(1)(i) and R315-319-90(b)(1)(ii). In addition, the owner or operator of the CCR unit shall initiate the detection monitoring program to include obtaining a minimum of eight independent samples for each background well as required by Subsection R315-319-94(b).

(c) Once a groundwater monitoring system and groundwater monitoring program has been established at the CCR unit as required by Sections R315-319-50 through R315-319-107, the owner or operator shall conduct groundwater monitoring and, if necessary, corrective action throughout the active life and post-closure care period of the CCR unit.

(d) In the event of a release from a CCR unit, the owner or operator shall immediately take ~~[a]~~any necessary measures to control the source~~(s)~~ of releases so as to reduce or eliminate, to the maximum extent feasible, further releases of contaminants into the environment. The owner or operator of the CCR unit shall comply with ~~[a]~~the applicable requirements in S~~[ub]~~sections R315-319-96, R315-319-97, and R315-319-98.

(e) Annual groundwater monitoring and corrective action report. For existing CCR landfills and existing CCR surface impoundments, no later than January 31, 2018, and annually thereafter, the owner or operator shall prepare an annual groundwater monitoring and corrective action report and forward the report to the ~~[D]~~director by March 1 of each year. For new CCR landfills, new CCR surface impoundments, and ~~[a]~~lateral expansions of CCR units, the owner or operator shall prepare the initial annual groundwater monitoring and corrective action report no later than January 31 of the year following the calendar year a groundwater monitoring system has been established for ~~[such]~~the CCR unit as required by Sections R315-319-50 through R315-319-107, and annually thereafter. For the preceding calendar year, the annual report shall document the status of the groundwater monitoring and corrective action program for the CCR unit, summarize key actions completed, describe any problems encountered, discuss actions to resolve the problems, and project key activities for the upcoming year. For purposes of Section[s] R315-319-90, the owner or operator has prepared the annual report when the

report is placed in the facility's operating record as required by Subsection R315-319-105(h)(1). At a minimum, the annual groundwater monitoring and corrective action report shall contain~~[-the following information]~~, to the extent available:

- (1) ~~[A]~~a map, aerial image, or diagram showing the CCR unit and ~~[all]~~the background, or upgradient, and downgradient monitoring wells, to include the well identification numbers, that are part of the groundwater monitoring program for the CCR unit;
  - (2) ~~[I]~~identification of any monitoring wells that were installed or decommissioned during the preceding year, along with a narrative description of why those actions were taken;
  - (3) ~~[I]~~in addition to [all]the monitoring data obtained under Sections R315-319-90 through R315-319-98, a summary including the number of groundwater samples that were collected for analysis for each background and downgradient well, the dates the samples were collected, and whether the sample was required by the detection monitoring or assessment monitoring programs;
  - (4) ~~[A]~~a narrative discussion of any transition between monitoring programs, ~~[e.g.]~~for example, the date and circumstances for transitioning from detection monitoring to assessment monitoring in addition to identifying the constituent~~[s]~~ detected at a statistically significant increase over background levels;~~[-and]~~
  - (5) ~~[O]~~other information required to be included in the annual report as specified in Sections R315-319-90 through R315-319-98;
- and

(6) A section at the beginning of the annual report that provides an overview of the current status of groundwater monitoring and corrective action programs for the CCR unit. At a minimum, the summary shall specify:

(i) at the start of the current annual reporting period, whether the CCR unit was operating under the detection monitoring program in Section R315-319-94 or the assessment monitoring program in Section R315-319-95;

(ii) at the end of the current annual reporting period, whether the CCR unit was operating under the detection monitoring program in Section R315-319-94 or the assessment monitoring program in Section R315-319-95;

(iii) if it was determined that there was a statistically significant increase over background for one or more constituents listed in Appendix III to Rule R315-319 pursuant to Subsection R315-319-94(e);

(A) identify those constituents listed in Appendix III to Rule R315-319 and the names of the monitoring wells associated with an increase; and

(B) provide the date when the assessment monitoring program was initiated for the CCR unit;

(iv) if it was determined that there was a statistically significant level above the groundwater protection standard for one or more constituents listed in Appendix IV to Rule R315-319 pursuant to Subsection R315-319-95(g) include:

(A) identification of those constituents listed in Appendix IV to Rule R315-319 and the names of the monitoring wells associated with an increase;

(B) the date when the assessment of corrective measures was initiated for the CCR unit;

(C) the date when the public meeting was held for the assessment of corrective measures for the CCR unit; and

(D) the date when the assessment of corrective measures was completed for the CCR unit;

(v) whether a remedy was selected pursuant to Section R315-319-97 during the current annual reporting period, and if so, the date of remedy selection; and

(vi) whether remedial activities were initiated or are ongoing pursuant to Section R315-319-98 during the current annual reporting period.

(f) The owner or operator of the CCR unit shall comply with the recordkeeping requirements specified in Subsection R315-319-105(h), the notification requirements specified in Subsection R315-319-106(h), and the internet requirements specified in Subsection R315-319-107(h).

#### **R315-319-91. Groundwater Monitoring and Corrective Action - Groundwater Monitoring Systems.**

(a) Performance standard. The owner or operator of a CCR unit shall install a groundwater monitoring system consists of ~~[a sufficient number of]~~enough wells, installed at appropriate locations and depths, to yield groundwater samples from the uppermost aquifer that:

(1) ~~[A]~~accurately represent the quality of background groundwater that has not been affected by leakage from a CCR unit. A determination of background quality may include sampling of wells that are not hydraulically upgradient of the CCR management area where:

(i) ~~[H]~~hydrogeologic conditions do not allow the owner or operator of the CCR unit to determine what wells are hydraulically upgradient; or

(ii) ~~[S]~~sampling at other wells will provide an indication of background groundwater quality that is as representative or more representative than that provided by the upgradient wells; and

(2) ~~[A]~~accurately represent the quality of groundwater passing the waste boundary of the CCR unit. The downgradient monitoring system shall be installed at the waste boundary that ensures detection of groundwater contamination in the uppermost aquifer. ~~[All]~~Each potential contaminant pathway~~[s]~~ shall be monitored.

(b) The number, spacing, and depths of monitoring systems shall be determined based upon site-specific technical information that shall include thorough characterization of:

(1) ~~[A]~~aquifer thickness, groundwater flow rate, groundwater flow direction including seasonal and temporal fluctuations in groundwater flow; and

(2) ~~[S]~~saturated and unsaturated geologic units and fill materials overlying the uppermost aquifer, materials comprising the uppermost aquifer, and materials comprising the confining unit defining the lower boundary of the uppermost aquifer, including~~[-but not limited to,]~~ thicknesses, stratigraphy, lithology, hydraulic conductivities, porosities, and effective porosities.

(c) The groundwater monitoring system shall include the minimum number of monitoring wells necessary to meet the performance standards specified in Subsection R315-319-91(a), based on the site-specific information specified in Subsection R315-319-91(b). The groundwater monitoring system shall contain:

(1) ~~[A]~~a minimum of one upgradient and three downgradient monitoring wells; and

(2) ~~[A]~~additional monitoring wells as necessary to accurately represent the quality of background groundwater that has not been affected by leakage from the CCR unit and the quality of groundwater passing the waste boundary of the CCR unit.

(d) The owner or operator of multiple CCR units may install a multiunit groundwater monitoring system instead of separate groundwater monitoring systems for each CCR unit.

(1) The multiunit groundwater monitoring system shall be equally as capable of detecting monitored constituents at the waste boundary of the CCR unit as the individual groundwater monitoring system specified in Subsections R315-319-91(a) through R315-319-91(c) for each CCR unit based on ~~the following factors~~:

(i) ~~[N]~~number, spacing, and orientation of each CCR unit;

(ii) ~~[H]~~hydrogeologic setting;

(iii) ~~[S]~~site history; and

(iv) ~~[E]~~engineering design of the CCR unit.

~~[(2) If the owner or operator elects to install a multiunit groundwater monitoring system, and if the multiunit system includes at least one existing unlined CCR surface impoundment as determined by Subsection R315-319-71(a), and if at any time after October 19, 2015 the owner or operator determines in any sampling event that the concentrations of one or more constituents listed in appendix IV to Rule R315-319 are detected at statistically significant levels above the groundwater protection standard established under Subsection R315-319-95(h) for the multiunit system, then all unlined CCR surface impoundments comprising the multiunit groundwater monitoring system are subject to the closure requirements under Subsection R315-319-101(a) to retrofit or close.]~~

(e) Monitoring wells shall be cased in a manner that maintains the integrity of the monitoring well borehole. This casing shall be screened or perforated and packed with gravel or sand, where necessary, to enable collection of groundwater samples. The annular space, ~~[i.e.]that is~~, the space between the borehole and well casing, above the sampling depth shall be sealed to prevent contamination of samples and the groundwater.

(1) The owner or operator of the CCR unit shall document and include in the operating record the design, installation, development, and decommissioning of any monitoring wells, piezometers, and other measurement, sampling, and analytical devices. The qualified professional engineer shall be given access to this documentation when completing the groundwater monitoring system certification required under Subsection R315-319-91(f).

(2) The monitoring wells, piezometers, and other measurement, sampling, and analytical devices shall be operated and maintained so that they perform to the design specifications throughout the life of the monitoring program.

(f) The owner or operator shall obtain a certification from a qualified professional engineer stating that the groundwater monitoring system has been designed and constructed to meet the requirements of Section R315-319-91. If the groundwater monitoring system includes the minimum number of monitoring wells specified in Subsection R315-319-91(c)(1), the certification shall document the basis supporting this determination.

(g) The owner or operator of the CCR unit shall comply with the recordkeeping requirements specified in Subsection R315-319-105(h), the notification requirements specified in Subsection R315-319-106(h), and the internet requirements specified in Subsection R315-319-107(h).

### **R315-319-93. Groundwater Monitoring and Corrective Action - Groundwater Sampling and Analysis Requirements.**

(a) The groundwater monitoring program shall include consistent sampling and analysis procedures designed to ensure monitoring results that provide an accurate representation of groundwater quality at the background and downgradient wells required by ~~S[ubs]~~ection R315-319-91. The owner or operator of the CCR unit shall develop and receive approval from the director for a sampling and analysis program that includes procedures and techniques for:

(1) sample collection;

(2) sample preservation and shipment;

(3) analytical procedures;

(4) chain of custody control; and

(5) quality assurance and quality control.

(b) The groundwater monitoring program shall include sampling and analytical methods that are appropriate for groundwater sampling and that accurately measure hazardous constituents and other monitoring parameters in groundwater samples. For ~~S[ubs]~~ections R315-319-90 through R315-319-98, the term constituent refers to both hazardous constituents and other monitoring parameters listed in either ~~[a]~~Appendix III or IV ~~[of]~~to Rule R315-319.

(c) Groundwater elevations shall be measured in each well immediately before purging, each time groundwater is sampled. The owner or operator of the CCR unit shall determine the rate and direction of groundwater flow each time groundwater is sampled. Groundwater elevations in wells that monitor a CCR management area shall be measured within a period short enough to avoid temporal variations in groundwater flow that could preclude accurate determination of groundwater flow rate and direction.

(d) The owner or operator of the CCR unit shall establish background groundwater quality in a hydraulically upgradient or background well for each of the constituents required in the particular groundwater monitoring program that applies to the CCR unit as determined under Subsection R315-319-94(a) or ~~Subsection~~ R315-319-95(a). Background groundwater quality may be established at wells that are not located hydraulically upgradient from the CCR unit if it meets the requirements of Subsection R315-319-91(a)(1).

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(e) The number of samples collected when conducting detection monitoring and assessment monitoring, for both downgradient and background wells, shall be consistent with the statistical procedures chosen under Subsection R315-319-93(f) and the performance standards under Subsection R315-319-93(g). The sampling procedures shall be those specified under Subsections R315-319-94(b) through R315-319-94(d) for detection monitoring, Subsections R315-319-95(b) through R315-319-95(d) [—]for assessment monitoring, and Subsection R315-319-96(b) for corrective action.

(f) The owner or operator of the CCR unit shall select one of the statistical methods specified in Subsections R315-319-93(f)(1) through R315-319-93(f)(5) to be used in evaluating groundwater monitoring data for each specified constituent. The statistical test chosen shall be conducted separately for each constituent in each monitoring well.

(1) A parametric analysis of variance followed by multiple comparison procedures to identify statistically significant evidence of contamination. The method shall include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each constituent.

(2) An analysis of variance based on ranks followed by multiple comparison procedures to identify statistically significant evidence of contamination. The method shall include estimation and testing of the contrasts between each compliance well's median and the background median levels for each constituent.

(3) A tolerance or prediction interval procedure, in which an interval for each constituent is established from the distribution of the background data and the level of each constituent in each compliance well is compared to the upper tolerance or prediction limit.

(4) A control chart approach that gives control limits for each constituent.

(5) Another statistical test method that meets the performance standards of Subsection R315-319-93(g) and has been approved by the director.

(6) The owner or operator of the CCR unit shall get a certification from a qualified professional engineer stating that the selected statistical method is appropriate for evaluating the groundwater monitoring data for the CCR management area. The certification shall include a narrative description of the statistical method selected to evaluate the groundwater monitoring data.

(g) Any statistical method chosen under Subsection R315-319-93(f) shall comply with the ~~following~~ performance standards listed in Subsections R315-319-93(g)(1) through R315-319-93(g)(6), as appropriate, based on the statistical test method used:

(1) The statistical method used to evaluate groundwater monitoring data shall be appropriate for the distribution of constituents. Normal distributions of data values shall use parametric methods. Non-normal distributions shall use non-parametric methods. If the distribution of the constituents is shown by the owner or operator of the CCR unit to be inappropriate for a normal theory test, then the data shall be transformed or a distribution-free, non-parametric, theory test shall be used. If the distributions for the constituents differ, more than one statistical method may be needed.

(2) If an individual well comparison procedure is used to compare an individual compliance well constituent concentration with background constituent concentrations or a groundwater protection standard, the test shall be done at a Type I error level no less than 0.01 for each testing period. If a multiple comparison procedure is used, the Type I experiment wise error rate for each testing period shall be no less than 0.05; however, the Type I error of no less than 0.01 for individual well comparisons shall be maintained. This performance standard does not apply to tolerance intervals, prediction intervals, or control charts.

(3) If a control chart approach is used to evaluate groundwater monitoring data, the specific type of control chart and its associated parameter values shall be such that this approach is at least as effective as any other approach in Section R315-319-93 for evaluating groundwater data. The parameter values shall be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each constituent of concern.

(4) If a tolerance interval or a prediction interval is used to evaluate groundwater monitoring data, the levels of confidence and, for tolerance intervals, the percentage of the population that the interval shall contain, shall be such that this approach is at least as effective as any other approach in Section R315-319-93 for evaluating groundwater data. These parameters shall be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each constituent of concern.

(5) The statistical method shall account for data below the limit of detection with one or more statistical procedures that shall at least as effective as any other approach in Section R315-319-93 for evaluating groundwater data. Any practical quantitation limit that is used in the statistical method shall be the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility.

(6) If necessary, the statistical method shall include procedures to control or correct for seasonal and spatial variability as well as temporal correlation in the data.

(h) The owner or operator of the CCR unit shall determine whether or not there is a statistically significant increase over background values for each constituent required in the particular groundwater monitoring program that applies to the CCR unit, as determined under Subsection R315-319-94(a) or ~~Subsection~~ R315-319-95(a).

(1) In determining whether a statistically significant increase has occurred, the owner or operator shall compare the groundwater quality of each constituent at each monitoring well designated pursuant to Subsection R315-319-91(a)(2) or R315-319-91(d)(1) to the background value of that constituent, according to the statistical procedures and performance standards specified under Subsections R315-319-93(f) and R315-319-93(g).

(2) Within 90 days after completing sampling and analysis, the owner or operator shall determine whether there has been a statistically significant increase over background for any constituent at each monitoring well.

(i) The owner or operator shall measure total recoverable metals concentrations in measuring groundwater quality. Measurement of total recoverable metals captures both the particulate fraction and dissolved fraction of metals in natural waters. Groundwater samples ~~shall~~ may not be field-filtered before analysis.

(j) The owner or operator of the CCR unit shall comply with the recordkeeping requirements specified in Subsection R315-319-105(h), the notification requirements specified in Subsection R315-319-106(h), and the [F]internet requirements specified in Subsection R315-319-107(h).

**R315-319-94 Groundwater Monitoring and Corrective Action - Detection Monitoring Program.**

(a) The owner or operator of a CCR unit shall conduct detection monitoring at ~~at~~ each groundwater monitoring well[s] consistent with Section R315-319-94. At a minimum, a detection monitoring program shall include groundwater monitoring for ~~the~~ constituents listed in ~~Appendix~~ Appendix III to Rule R315-319.

(b) Except as provided in Subsection R315-319-94(d), the monitoring frequency for the constituents listed in ~~Appendix~~ Appendix III to Rule R315-319 shall be at least semiannual during the active life of the CCR unit and the post-closure period. For existing CCR landfills and existing CCR surface impoundments, a minimum of eight independent samples from each background and downgradient well shall be collected and analyzed for the constituents listed in ~~Appendix~~ Appendix III and ~~Appendix~~ Appendix IV to Rule R315-319 no later than October 17, 2017. For new CCR landfills, new CCR surface impoundments, and ~~lateral~~ lateral expansions of CCR units, a minimum of eight independent samples for each background well shall be collected and analyzed for the constituents listed in ~~Appendices~~ Appendices III and IV to Rule R315-319 during the first six months of sampling.

(c) The number of samples collected and analyzed for each background well and downgradient well during subsequent semiannual sampling events shall be consistent with Subsection R315-319-93(e), and shall account for any unique characteristics of the site, but shall be at least one sample from each background and downgradient well.

(d) The owner or operator of a CCR unit may demonstrate the need for an alternative monitoring frequency for repeated sampling and analysis for constituents listed in ~~Appendix~~ Appendix III to Rule R315-319 during the active life and the post-closure care period based on the availability of groundwater. This demonstration shall be submitted and approved by the ~~Director~~ director. If there is not adequate groundwater flow to sample wells semiannually, the alternative frequency shall be no less than annual. The need to vary monitoring frequency shall be evaluated on a site-specific basis. The demonstration shall be supported by, at a minimum, the information specified in Subsections R315-319-94(d)(1) and ~~R315-319-94(d)(2)~~.

(1) Information documenting that the need for less frequent sampling. The alternative frequency shall be based on consideration of the ~~following~~ factors listed in Subsections R315-319-94(d)(1)(i) through R315-319-94(d)(1)(iii):

- (i) ~~L~~ lithology of the aquifer and unsaturated zone;
- (ii) ~~H~~ hydraulic conductivity of the aquifer and unsaturated zone; and
- (iii) ~~G~~ groundwater flow rates.

(2) Information documenting that the alternative frequency will be no less effective in ensuring that any leakage from the CCR unit will be discovered within a timeframe that will not materially delay establishment of an assessment monitoring program.

(3) The owner or operator shall obtain a certification from a qualified professional engineer stating that the demonstration for an alternative groundwater sampling and analysis frequency meets the requirements of Section R315-319-94. The owner or operator shall include the demonstration providing the basis for the alternative monitoring frequency and the certification by a qualified professional engineer in the annual groundwater monitoring and corrective action report required by Subsection R315-319-90(e).

(e) If the owner or operator of the CCR unit determines, pursuant to Subsection R315-319-93(h) that there is a statistically significant increase over background levels for one or more of the constituents listed in ~~Appendix~~ Appendix III to Rule R315-319 at any monitoring well at the waste boundary specified under Subsection R315-319-91(a)(2), the owner or operator shall:

(1) Except as provided for in Subsection R315-319-94(e)(2), within 90 days of detecting a statistically significant increase over background levels for any constituent, establish an assessment monitoring program meeting the requirements of ~~Subsection~~ Section R315-319-95.

(2) The owner or operator may demonstrate that a source other than the CCR unit caused the statistically significant increase over background levels for a constituent or that the statistically significant increase resulted from error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality. The owner or operator shall complete the written demonstration within 90 days of detecting a statistically significant increase over background levels to include obtaining a certification from a qualified professional engineer verifying the accuracy of the information in the report. If a successful demonstration is completed within the 90-day period, the owner or operator of the CCR unit may continue with a detection monitoring program under Section R315-319-94. If a successful demonstration is not completed within the 90-day period, the owner or operator of the CCR unit shall initiate an assessment monitoring program as required under ~~Subsection~~ Section R315-319-95. The owner or operator shall also include the demonstration in the annual groundwater monitoring and corrective action report required by Subsection R315-319-90(e), in addition to the certification by a qualified professional engineer.

(3) The owner or operator of a CCR unit shall prepare a notification stating that an assessment monitoring program has been established. The owner or operator has completed the notification when the notification is placed in the facility's operating record as required by Subsection R315-319-105(h)(5).

(f) The owner or operator of the CCR unit shall comply with the recordkeeping requirements specified in Subsection R315-319-105(h), the notification requirements specified in Subsection R315-319-106(h), and the [F]internet requirements specified in Subsection R315-319-107(h).

**R315-319-95. Groundwater Monitoring and Corrective Action - Assessment Monitoring Program.**

(a) Assessment monitoring is required when ~~ever~~ a statistically significant increase over background levels has been detected for one or more of the constituents listed in ~~Appendix~~ Appendix III to Rule R315-319.

(b) Within 90 days of triggering an assessment monitoring program, and annually thereafter, the owner or operator of the CCR unit shall sample and analyze the groundwater for the constituents listed in ~~Appendix~~ Appendix IV to Rule R315-319. The number of samples collected

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and analyzed for each well during each sampling event shall be consistent with Subsection R315-319-93(e), and shall account for any unique characteristics of the site, but shall be at least one sample from each well.

(c) The owner or operator of a CCR unit may demonstrate the need for an alternative monitoring frequency for repeated sampling and analysis for constituents listed in [a]Appendix IV to Rule R315-319 during the active life and the post-closure care period based on the availability of groundwater. If there is not adequate groundwater flow to sample wells semiannually, the alternative frequency shall be no less than annual. The need to vary monitoring frequency shall be evaluated on a site-specific basis. The demonstration shall be supported by, at a minimum, the information specified in Subsections R315-319-95(c)(1) and R315-319-95(c)(2).

(1) Information documenting that the need for less frequent sampling. The alternative frequency shall be based on consideration of the following factors:

- (i) lithology of the aquifer and unsaturated zone;
- (ii) hydraulic conductivity of the aquifer and unsaturated zone; and
- (iii) groundwater flow rates.

(2) Information documenting that the alternative frequency will be no less effective in ensuring that any leakage from the CCR unit will be discovered within a timeframe that will not materially delay the initiation of any necessary remediation measures.

(3) The owner or operator shall get a certification from a qualified professional engineer stating that the demonstration for an alternative groundwater sampling and analysis frequency meets the requirements of Section R315-319-95. The owner or operator shall include the demonstration providing the basis for the alternative monitoring frequency and the certification by a qualified professional engineer in the annual groundwater monitoring and corrective action report required by Subsection R315-319-90(e).

(d) After getting the results from the initial and subsequent sampling events required in Subsection R315-319-95(b), the owner or operator shall:

(1) within 90 days of getting the results, and on at least a semiannual basis thereafter, resample any wells that were installed pursuant to the requirements of Section R315-319-91, conduct analyses for the parameters in [a]Appendix III to Rule R315-319 and for those constituents in [a]Appendix IV to Rule R315-319 that are detected in response to Subsection R315-319-95(b), and record their concentrations in the facility operating record. The number of samples collected and analyzed for each background well and downgradient well during subsequent semiannual sampling events shall be consistent with Subsection R315-319-93(e), and shall account for any unique characteristics of the site, but shall be at least one sample from each background and downgradient well;

(2) establish groundwater protection standards for any constituents detected pursuant to Subsection R315-319-95(b) or R315-319-95(d). The groundwater protection standards shall be established in accordance with Subsection R315-319-95(h); and

(3) include the recorded concentrations required by Subsection R315-319-95(d)(1), identify the background concentrations established under Subsection R315-319-94(b), and identify the groundwater protection standards established under Subsection R315-319-95(d)(2) in the annual groundwater monitoring and corrective action report required by Subsection R315-319-90(e).

(e) If the concentrations of the constituents listed in [a]Appendices III and IV of Rule R315-319 are shown to be at or below background values, using the statistical procedures in Subsection R315-319-93(g), for two consecutive sampling events, the owner or operator may return to detection monitoring of the CCR unit. The owner or operator shall prepare a notification stating that detection monitoring is resuming for the CCR unit and submit the notification to the director for approval. The owner or operator has finished the notification when the notification is placed in the facility's operating record as required by Subsection R315-319-105(h)(7).

(f) If the concentrations of any constituent in [a]Appendices III and IV to Rule R315-319 are above background values, but the concentrations are below the groundwater protection standard established under Subsection R315-319-95(h), using the statistical procedures in Subsection R315-319-93(g), the owner or operator shall continue assessment monitoring in accordance with Section R315-319-95.

(g) If one or more constituents in [a]Appendix IV to Rule R315-319 are detected at statistically significant levels above the groundwater protection standard established under Subsection R315-319-95(h) in any sampling event, the owner or operator shall prepare a notification identifying the constituents in [a]Appendix IV to Rule R315-319 that have exceeded the groundwater protection standard. The owner or operator has finished the notification when the notification is placed in the facility's operating record as required by Subsection R315-319-105(h)(8). The owner or operator of the CCR unit also shall:

(1) [C]characterize the nature and extent of the release and any relevant site conditions that may affect the remedy ultimately selected. The characterization shall be sufficient to support a complete and accurate assessment of the corrective measures necessary to effectively clean up any releases from the CCR unit pursuant to S[ubs]ection R315-319-96. Characterization of the release includes the [following] minimum measures listed in Subsections R315-319-95(g)(1)(i) through R315-319-95(g)(1)(iv):

- (i) install additional monitoring wells necessary to define the contaminant plume;
- (ii) collect data on the nature and estimated quantity of material released including specific information on the constituents listed in [a]Appendix IV [of] to Rule R315-319 and the levels that they are present in the material released;
- (iii) install at least one additional monitoring well at the facility boundary in the direction of contaminant migration and sample this well in accordance with Subsection R315-319-95(d)(1); and

(iv) sample the wells in accordance with Subsection R315-319-95(d)(1) to characterize the nature and extent of the release.

(2) Notify each person who owns the land or resides on the land that directly overlies any part of the plume of contamination if contaminants have migrated off-site if indicated by sampling of wells in accordance with Subsection R315-319-95(g)(1). The owner or operator has finished the notifications when they are placed in the facility's operating record as required by Subsection R315-319-105(h)(8).

(3) Within 90 days of finding that any of the constituents listed in [a]Appendix IV to Rule R315-319 have been detected at a statistically significant level exceeding the groundwater protection standards the owner or operator shall either:

- (i) initiate an assessment of corrective measures as approved by the director and as required by S[ubs]ection R315-319-96; or
- (ii) demonstrate that a source other than the CCR unit caused the contamination, or that the statistically significant increase resulted from error in sampling, analysis, statistical evaluation, or natural variation in groundwater quality. Any demonstration shall be

submitted to and has received approval from the director and supported by a report that includes the factual or evidentiary basis for any conclusions and shall be certified to be accurate by a qualified professional engineer. If a successful demonstration is made, the owner or operator shall continue monitoring in accordance with the assessment monitoring program pursuant to Section R315-319-95, and may return to detection monitoring if the constituents in [a]Appendices III and IV to Rule R315-319 are at or below background as specified in Subsection R315-319-95(e). The owner or operator shall also include the demonstration in the annual groundwater monitoring and corrective action report required by Subsection R315-319-90(e), in addition to the certification by a qualified professional engineer.

(4) If a successful demonstration has not been made at the end of the 90-day period provided by Subsection R315-319-95(g)(3)(ii), the owner or operator of the CCR unit shall initiate the assessment of corrective measures requirements under S[ubs]ection R315-319-96.

(5) ~~If an assessment of corrective measures is required under Subsection R315-319-96 by either Subsection R315-319-95(g)(3)(i) or R315-319-95(g)(4), and if the CCR unit is an existing unlined CCR surface impoundment as determined by Subsection R315-319-71(a), then the CCR unit is subject to the closure requirements under Subsection R315-319-101(a) to retrofit or close. In addition, t]~~The owner or operator shall prepare a notification stating that an assessment of corrective measures has been initiated.

(h) The owner or operator of the CCR unit shall establish a groundwater protection standard for each constituent in [a]Appendix IV to Rule R315-319 detected in the groundwater. The groundwater protection standard shall be:

(1) for constituents that a ground water protection standard has been established in Rule R315-308, the ground water protection standard in Rule R315-308;

(2) for the constituents listed in Subsections R315-319-95(h)(2)(i) and R315-319-95(h)(2)(ii):

(i) lithium 40 micrograms per liter, µg/l; and

(ii) molybdenum 100 µg/l; or~~that a ground water protection standard has not been established in Rule R315-308, the background concentration for the constituent established from wells in accordance with Section R315-319-91; or]~~

(3) for constituents that the background level is higher than the ground water protection standard identified under Subsections R315-319-95(h)(1) and R315-319-95(h)(2), the background concentration.

(i) The owner or operator of the CCR unit shall comply with the recordkeeping requirements specified in Subsection R315-319-105(h), the notification requirements specified in Subsection R315-319-106(h), and the [F]internet requirements specified in Subsection R315-319-107(h).

#### **R315-319-96. Groundwater Monitoring and Corrective Action Assessment of Corrective Measures.**

(a) Within 90 days of finding that any constituent listed in [a]Appendix IV to Rule R315-319 has been detected at a statistically significant level exceeding the groundwater protection standard defined under Subsection R315-319-95(h), or immediately upon detection of a release from a CCR unit, the owner or operator shall initiate an assessment of corrective measures to prevent further releases, to remediate any releases, and to restore affected area to original conditions. The assessment of corrective measures shall be completed within 90 days, unless the owner or operator demonstrates the need for additional time to complete the assessment of corrective measures due to site-specific conditions or circumstances. The owner or operator shall obtain a certification from a qualified professional engineer attesting that the demonstration is accurate. The 90-day deadline to complete the assessment of corrective measures may be extended for no longer than 60 days. The owner or operator shall also include the demonstration in the annual groundwater monitoring and corrective action report required by Subsection R315-319-90(e), in addition to the certification by a qualified professional engineer.

(b) The owner or operator of the CCR unit shall continue to monitor groundwater in accordance with the assessment monitoring program as specified in S[ubs]ection R315-319-95.

(c) The assessment under Subsection R315-319-96(a) shall include an analysis of the effectiveness of potential corrective measures in meeting ~~all~~each of the requirements and objectives of the remedy as described under S[ubs]ection R315-319-97 addressing at least~~the following~~:

(1) ~~[F]~~the performance, reliability, ease of implementation, and potential impacts of appropriate potential remedies, including safety impacts, cross-media impacts, and control of exposure to any residual contamination;

(2) ~~[F]~~the time required to begin and complete the remedy; and

(3) ~~[F]~~the institutional requirements, such as state or local permit requirements or other environmental or public health requirements that may substantially affect implementation of the remedy~~[{s}]~~.

(d) The owner or operator shall place the completed assessment of corrective measures in the facility's operating record. The assessment has been completed when it is placed in the facility's operating record as required by Subsection R315-319-105(h)(10).

(e) The owner or operator shall discuss the results of the corrective measures assessment at least 30 days ~~[prior to]~~before the selection of remedy, in a public meeting with interested and affected parties.

(f) The owner or operator of the CCR unit shall comply with the recordkeeping requirements specified in Subsection R315-319-105(h), the notification requirements specified in Subsection R315-319-106(h), and the [F]internet requirements specified in Subsection R315-319-107(h).

#### **R315-319-97. Groundwater Monitoring and Corrective Action Selection of Remedy.**

(a) Based on the results of the corrective measures assessment conducted under S[ubs]ection R315-319-96, the owner or operator shall, as soon as feasible, select a remedy that, at a minimum, meets the standards listed in Subsection R315-319-97(b). This requirement applies to, not in place of, any applicable standards under the Occupational Safety and Health Act. The owner or operator shall prepare a semiannual report describing the progress in selecting and designing the remedy. Upon selection of a remedy, the owner or operator shall prepare a final report describing the selected remedy and how it meets the standards specified in Subsection R315-319-97(b). The remedy and report shall be approved by the ~~[D]~~director. The owner or operator shall obtain a certification from a qualified professional engineer that

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the remedy selected meets the requirements of Section R315-319-97. The report has been completed when it is placed in the operating record as required by Subsection R315-319-105(h)(12).

(b) Remedies shall:

- (1) ~~[B]~~be protective of human health and the environment;
  - (2) ~~[A]~~attain the groundwater protection standard as specified pursuant to Subsection R315-319-95(h);
  - (3) ~~[C]~~control the source~~[s]~~ of releases so as to reduce or eliminate, to the maximum extent feasible, further releases of constituents in ~~[a]~~Appendix IV to Rule R315-319 into the environment;
  - (4) ~~[R]~~remove from the environment as much of the contaminated material that was released from the CCR unit as is feasible, taking into account factors such as avoiding inappropriate disturbance of sensitive ecosystems; ~~and~~
  - (5) ~~[C]~~comply with standards for management of wastes as specified in Subsection R315-319-98(d).
- (c) In selecting a remedy that meets the standards of Subsection R315-319-97(b), the owner or operator of the CCR unit shall consider the ~~[following]~~ evaluation factors listed in Subsections R315-319-97(c)(1) through R315-319-97(c)(4):
- (1) The long- and short-term effectiveness and protectiveness of the potential remedy~~[s]~~, along with the degree of certainty that the remedy will prove successful based on consideration of ~~[the following]~~:
    - (i) ~~[M]~~the magnitude of reduction of existing risks;
    - (ii) ~~[M]~~the magnitude of residual risks in terms of likelihood of further releases due to CCR remaining following implementation of a remedy;
    - (iii) ~~[T]~~the type and degree of long-term management required, including monitoring, operation, and maintenance;
    - (iv) ~~[S]~~the short-term risks that might be posed to the community or the environment during implementation of such a remedy, including potential threats to human health and the environment associated with excavation, transportation, and re-disposal of contaminant;
    - (v) ~~[T]~~the time until full protection is achieved;
    - (vi) ~~[P]~~the potential for exposure of humans and environmental receptors to remaining wastes, considering the potential threat to human health and the environment associated with excavation, transportation, re-disposal, or containment;
    - (vii) ~~[E]~~the long-term reliability of the engineering and institutional controls; and
    - (viii) ~~[P]~~the potential need for replacement of the remedy.
  - (2) The effectiveness of the remedy in controlling the source to reduce further releases based on consideration of the ~~[following]~~ factors listed in Subsections R315-319-97(c)(2)(i) and R315-319-97(c)(2)(ii):
    - (i) ~~[T]~~the extent to which containment practices will reduce further releases; and
    - (ii) ~~[T]~~the extent to which treatment technologies may be used.
  - (3) The ease or difficulty of implementing a potential remedy~~[s]~~ based on consideration of the ~~[following types of]~~ factors listed in Subsections R315-319-97(c)(3)(i) through R315-319-97(c)(3)(v):
    - (i) ~~[D]~~degree of difficulty associated with constructing the technology;
    - (ii) ~~[E]~~expected operational reliability of the technologies;
    - (iii) ~~[N]~~need to coordinate with and obtain necessary approvals and permits from other agencies;
    - (iv) ~~[A]~~availability of necessary equipment and specialists; and
    - (v) ~~[A]~~available capacity and location of needed treatment, storage, and disposal services.
  - (4) The degree to which community concerns are addressed by ~~[a]~~potential remedy~~[s]~~.
  - (d) The owner or operator shall specify as part of the selected remedy a schedule~~(s)~~ or schedules for implementing and completing remedial activities. ~~[Such a]~~ The schedule shall require the completion of remedial activities within a reasonable period ~~[of time]~~ taking into consideration the factors set forth in Subsections R315-319-97~~[-]~~(d)(1) through R315-319-97(d)(6). ~~The owner or operator of the CCR unit shall consider the following factors in determining the schedule of remedial activities:~~
    - (1) ~~[E]~~extent and nature of contamination, as determined by the characterization required under Subsection R315-319-95(g);
    - (2) ~~[R]~~reasonable probabilities of remedial technologies in achieving compliance with the groundwater protection standards established under Subsection R315-319-95(h) and other objectives of the remedy;
    - (3) ~~[A]~~availability of treatment or disposal capacity for CCR managed during implementation of the remedy;
    - (4) ~~[P]~~potential risks to human health and the environment from exposure to contamination ~~[prior to]~~ before completion of the remedy;
    - (5) ~~[R]~~resource value of the aquifer including:
      - (i) ~~[C]~~current and future uses;
      - (ii) ~~[P]~~proximity and withdrawal rate of users;
      - (iii) ~~[G]~~groundwater quantity and quality;
      - (iv) ~~[T]~~the potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to CCR constituents;
      - (v) ~~[T]~~the hydrogeologic characteristic of the facility and surrounding land; and
      - (vi) ~~[T]~~the availability of alternative water supplies; and
      - (6) ~~[O]~~other relevant factors as required by the ~~[D]~~director.
    - (e) The owner or operator of the CCR unit shall comply with the recordkeeping requirements specified in Subsection R315-319-105(h), the notification requirements specified in Subsection R315-319-106(h), and the ~~[I]~~internet requirements specified in Subsection R315-319-107(h).



**R315-319-98. Groundwater Monitoring and Corrective Action Implementation of the Corrective Action Program.**

(a) Within 90 days of selecting a remedy under S[ubs]ection R315-319-97, the owner or operator shall initiate remedial activities. Based on the schedule established under Subsection R315-319-97(d) for implementation and completion of remedial activities the owner or operator shall:

- (1) [E]establish and implement a corrective action groundwater monitoring program that:
  - (i) [A]at a minimum, meets the requirements of an assessment monitoring program under S[ubs]ection R315-319-95;
  - (ii) [D]documents the effectiveness of the corrective action remedy; and
  - (iii) [D]demonstrates compliance with the groundwater protection standard pursuant to Subsection R315-319-98(c)[-]; and
- (2) [I]implement the corrective action remedy selected under S[ubs]ection R315-319-97; and
- (3) [T]take any interim measures necessary to reduce the contaminants leaching from the CCR unit, [and/]or potential exposures to human or ecological receptors, or both. Interim measures shall, to the greatest extent feasible, be consistent with the objectives of and contribute to the performance of any remedy that may be required pursuant to S[ubs]ection R315-319-97. The [following]owner or operator shall consider the factors listed in Subsections R315-319-98(a)(3)(i) through R315-319-98(a)(3)(vii)[shall be considered by an owner or operator] in determining whether interim measures are necessary:
  - (i) [T]time required to develop and implement a final remedy;
  - (ii) [A]actual or potential exposure of nearby populations or environmental receptors to any of the constituents listed in appendix IV of Rule R315-319;
  - (iii) [A]actual or potential contamination of drinking water supplies or sensitive ecosystems;
  - (iv) [F]further degradation of the groundwater that may occur if remedial action is not initiated expeditiously;
  - (v) [W]weather conditions that may cause any of the constituents listed in [a]Appendix IV to [this part]Rule R315-319 to migrate or be released;
  - (vi) [P]potential for exposure to any of the constituents listed in [a]Appendix IV to Rule R315-319 as a result of an accident or failure of a container or handling system; and
  - (vii) [O]other situations that may pose threats to human health and the environment.
- (b) If an owner or operator of the CCR unit, determines, at any time, that compliance with the requirements of Subsection R315-319-97(b) is not being achieved through the remedy selected, the owner or operator shall, with approval of the [D]director, implement other methods or techniques that could feasibly achieve compliance with the requirements.
- (c) Remedies selected pursuant to S[ubs]ection R315-319-97 shall be considered complete when:
  - (1) [T]the owner or operator of the CCR unit demonstrates compliance with the groundwater protection standards established under Subsection R315-319-95(h) has been achieved at [all]each point[s] within the plume of contamination that lie beyond the groundwater monitoring well system established under S[ubs]ection R315-319-91 and has received [D]director approval[-]; and
  - (2) [E]compliance with the groundwater protection standards established under Subsection R315-319-95(h) has been achieved by demonstrating that concentrations of constituents listed in [a]Appendix IV to Rule R315-319 have not exceeded the groundwater protection standard[(-s)] for a period of three consecutive years using the statistical procedures and performance standards in Subsections R315-319-93(f) [-]and R315-319-93(g).
  - (3) [A]Each action[s] required to complete the remedy have been satisfied.
- (d) [A]CCR[s] that are managed pursuant to a remedy required under Section R315-319-97, or an interim measure required under Subsection R315-319-98(a)(3), shall be managed in a manner that complies with [all]applicable Utah requirements.
- (e) Upon completion of the remedy, the owner or operator shall prepare a notification stating that the remedy has been completed. The notification shall be submitted to and be approved by the [D]director. The owner or operator shall obtain a certification from a qualified professional engineer attesting that the remedy has been completed in compliance with the requirements of Subsection R315-319-98(c). The report has been completed when it is placed in the operating record as required by Subsection R315-319-105(h)(13).
- (f) The owner or operator of the CCR unit shall comply with the recordkeeping requirements specified in Subsection R315-319-105(h), the notification requirements specified in Subsection R315-319-106(h), and the internet requirements specified in Subsection R315-319-107(h).

**R315-319-100. Closure and Post-Closure Care Inactive CCR Surface Impoundments.**

(a) Inactive CCR surface impoundments are subject to [all of]the requirements of Sections R315-319-50 through R315-319-107 applicable to existing CCR surface impoundments.

(b) Reserved.

(c) Reserved.

(d) Reserved.

(e) Timeframes for certain inactive CCR surface impoundments.

(1) An inactive CCR surface impoundment that the owner or operator has completed the actions by the deadlines specified in Subsections R315-319-100(e)(1)(i) through R315-319-100(e)(1)(iii) is eligible for the alternative timeframes specified in Subsections R315-319-100(e)(2) through R315-319-100(e)(6). The owner or operator of the CCR unit shall comply with the applicable recordkeeping, notification, and internet requirements associated with these provisions. For the inactive CCR surface impoundment:

(i) the owner or operator shall have prepared and placed in the facility's operating record by December 17, 2015, a notification of intent to initiate closure of the inactive CCR surface impoundment pursuant to Subsection R315-319-105(i)(1);

(ii) the owner or operator shall have provided notification to the director by January 19, 2016, of the intent to initiate closure of the inactive CCR surface impoundment pursuant to Subsection R315-319-106(i)(1); and

(iii) the owner or operator shall have placed on its CCR web site by January 19, 2016, the notification of intent to initiate closure of the inactive CCR surface impoundment pursuant to Subsection R315-319-107(i)(1).

(2) Location restrictions.

(i) No later than April 16, 2020, the owner or operator of the inactive CCR surface impoundment shall:

(A) complete the demonstration for placement above the uppermost aquifer as set forth in Subsections R315-319-60(a), R315-319-60(b), and R315-319-60(c)(3);

(B) complete the demonstration for wetlands as set forth in Subsections R315-319-61(a), R315-319-61(b), and R315-319-61(c)(3);

(C) complete the demonstration for fault areas as set forth in Subsections R315-319-62(a), R315-319-62(b), and R315-319-62(c)(3);

(D) complete the demonstration for seismic impact zones as set forth in Subsections R315-319-63(a), R315-319-63(b), and R315-319-63(c)(3); and

(E) complete the demonstration for unstable areas as set forth in Subsections R315-319-64(a), R315-319-64(b), R315-319-64(c), and R315-319-64(d)(3).

(ii) An owner or operator of an inactive CCR surface impoundment who fails to demonstrate compliance with the requirements of Subsection R315-319-100(e)(2)(i) is subject to the closure requirements of Subsection R315-319-101(b)(1).

(3) Design criteria. The owner or operator of the inactive CCR surface impoundment shall:

(i) no later than April 17, 2018, complete the documentation of liner type as set forth by Subsection R315-319-71(a) and R315-319-71(b);

(ii) no later than June 16, 2017, place on or immediately adjacent to the CCR unit the permanent identification marker as set forth in Subsection R315-319-73(a)(1);

(iii) no later than October 16, 2018, prepare and maintain an EAP as set forth in Subsection R315-319-73(a)(3);

(iv) no later than April 17, 2018, compile a history of construction as set forth in Subsections R315-319-73(b) and R315-319-73(c); and

(v) no later than April 17, 2018, complete the initial hazard potential classification, structural stability, and safety factor assessments as set forth in Subsections R315-319-73(a)(2), R315-319-73(b), R315-319-73(d), R315-319-73(e), and R315-319-73(f).

(4) Operating criteria. The owner or operator of the inactive CCR surface impoundment shall:

(i) no later than April 18, 2017, prepare the initial CCR fugitive dust control plan as set forth in Subsection R315-319-80(b);

(ii) no later than April 17, 2018, prepare the initial inflow design flood control system plan as set forth in Subsection R315-319-82(c);

(iii) no later than April 18, 2017, initiate the inspections by a qualified person as set forth in Subsection R315-319-83(a); and

(iv) no later than July 19, 2017, complete the initial annual inspection by a qualified professional engineer as set forth in Subsection R315-319-83(b).

(5) Groundwater monitoring and corrective action. The owner or operator of the inactive CCR surface impoundment shall:

(i) no later than April 17, 2019, comply with groundwater monitoring requirements set forth in Subsections R315-319-90(b) and R315-319-94(b); and

(ii) no later than August 1, 2019, prepare the initial groundwater monitoring and corrective action report as set forth in Subsection R315-319-90(e).

(6) Closure and post-closure care. The owner or operator of the inactive CCR surface impoundment shall:

(i) no later than April 17, 2018, prepare an initial written closure plan as set forth in Subsection R315-319-102(b); and

(ii) no later than April 17, 2018, prepare an initial written post-closure care plan as set forth in Subsection R315-319-104(d).

#### **R315-319-101. Closure and Post-Closure Care - Closure or Retrofit of CCR Units.**

(a) The owner or operator of an existing unlined CCR surface impoundment, as determined under Subsection R315-319-71(a), is subject to the requirements of Subsection R315-319-101(a)(1).

(1) Except as provided by Subsection R315-319-101(a)(3), ~~[if at any time after October 19, 2015 an owner or operator of an existing unlined CCR surface impoundment determines in any sampling event that the concentrations of one or more constituents listed in appendix IV to Rule R315-319 are detected at statistically significant levels above the groundwater protection standard established under Subsection R315-319-95(h) for such CCR unit, within six months of making such determination, the]~~ as soon as technically feasible, but before April 11, 2021, an owner or operator of the existing unlined CCR surface impoundment shall [ease] stop placing CCR and non-CCR wastestreams into [such] the CCR surface impoundment and either retrofit or close the CCR unit in accordance with the requirements of S[ub]section R315-319-102.

(2) An owner or operator of an existing unlined CCR surface impoundment that closes in accordance with Subsection R315-319-101(a)(1) shall include a statement in the notification required under Subsection R315-319-102(g) or R315-319-102(k)(5) that the CCR surface impoundment is closing or retrofitting under the requirements of Subsection R315-319-101(a)(1).

(3) The timeframe specified in Subsection R315-319-101(a)(1) does not apply if the owner or operator complies with the alternative closure procedures specified in ~~S[ub]section~~ Subsection R315-319-103.

(4) At any time after the initiation of closure under Subsection R315-319-101(a)(1), the owner or operator may ~~stop~~ stop[ease] closure activities and initiate a retrofit of the CCR unit in accordance with the requirements of Subsection R315-319-102(k).

(b) The owner or operator of an existing CCR surface impoundment is subject to the requirements of Subsection R315-319-101(b)(1).

(1)(i) Location standard under Section R315-319-60. Except as provided by Subsection R315-319-101(b)(4), ~~[within six months of determining that]~~ the owner or operator of an existing CCR surface impoundment has not demonstrated compliance with [any] the location

standard specified in Subsection[s] R315-319-60(a)[, 61(a), 62(a), 63(a), and 64(a), the owner or operator of the CCR surface impoundment] shall ~~[cease]~~stop placing CCR and non-CCR wastestreams into ~~[such]~~the CCR unit as soon as technically feasible, but no later than April 11, 2021, and close the CCR unit in accordance with the requirements of S[ub]section R315-319-102.

(ii) Location standards under Sections R315-319-61 through R315-319-64. Except as provided by Subsection R315-319-101(b)(4), within six months of determining that an existing CCR surface impoundment has not demonstrated compliance with any location standard specified in Subsections R315-319-61(a), R315-319-62(a), R315-319-63(a), and R315-319-64(a), the owner or operator of the CCR surface impoundment shall ~~[cease]~~stop placing CCR and non-CCR wastestreams into the CCR unit and close the CCR unit in accordance with the requirements of Section R315-319-102.

(2) Within six months of either failing to complete the initial or any subsequent periodic safety factor assessment required by Subsection R315-319-73(e) by the deadlines specified in Subsections R315-319-73(f)(1) through R315-319-73(f)(3) or failing to document that the calculated factors of safety for the existing CCR surface impoundment achieve the minimum safety factors specified in Subsections R315-319-73(e)(1)(i) through R315-319-73(e)(1)(iv), the owner or operator of the CCR surface impoundment shall ~~[cease]~~stop placing CCR and non-CCR wastestreams into ~~[such]~~the CCR unit and close the CCR unit in accordance with the requirements of S[ub]section R315-319-102.

(3) An owner or operator of an existing CCR surface impoundment that closes in accordance with Subsection R315-319-101(b)(1) or R315-319-101(b)(2) shall include a statement in the notification required under Subsection R315-319-102(g) that the CCR surface impoundment is closing under the requirements of Subsection R315-319-101(b)(1) or R315-319-101(b)(2).

(4) The timeframe specified in Subsection R315-319-101(b)(1) does not apply if the owner or operator complies with the alternative closure procedures specified in S[ub]section R315-319-103.

(c) The owner or operator of a new CCR surface impoundment is subject to the requirements of Subsection R315-319-101(c)(1).

(1) Within six months of either failing to complete the initial or any subsequent periodic safety factor assessment required by Subsection R315-319-74(e) by the deadlines specified in Subsections R315-319-74(f)(1) through R315-319-74(f)(3) or failing to document that the calculated factors of safety for the new CCR surface impoundment achieve the minimum safety factors specified in Subsections R315-319-74(e)(1)(i) through R315-319-74(e)(1)(v), the owner or operator of the CCR surface impoundment shall ~~[cease]~~stop placing CCR and non-CCR wastestreams into ~~[such]~~the CCR unit and close the CCR unit in accordance with the requirements of Section R315-319-102.

(2) An owner or operator of a ~~[n]~~n new CCR surface impoundment that closes in accordance with Subsection R315-319-101(c)(1) shall include a statement in the notification required under Subsection R315-319-102(g) that the CCR surface impoundment is closing under the requirements of Subsection R315-319-101(c)(1).

(d) The owner or operator of an existing CCR landfill is subject to the requirements of Subsection R315-319-101(d)(1).

(1) Except as provided by Subsection R315-319-101(d)(3), within six months of determining that an existing CCR landfill has not demonstrated compliance with the location restriction for unstable areas specified in Subsection R315-319-64(a), the owner or operator of the CCR unit shall ~~[cease]~~stop placing CCR and non-CCR waste streams into ~~[such]~~the CCR landfill and close the CCR unit in accordance with the requirements of Section R315-319-102.

(2) An owner or operator of an existing CCR landfill that closes in accordance with Subsection R315-319-101(d)(1) shall include a statement in the notification required under Subsection R315-319-102(g) that the CCR landfill is closing under the requirements of Subsection R315-319-101(d)(1).

(3) The timeframe specified in Subsection R315-319-101(d)(1) does not apply if the owner or operator complies with the alternative closure procedures specified in Section R315-319-103.

#### **R315-319-102. Closure and Post-Closure Care - Criteria for Conducting the Closure or Retrofit of CCR Units.**

(a) Closure of a CCR landfill, CCR surface impoundment, or any lateral expansion of a CCR unit shall be completed either by leaving the CCR in place and installing a final cover system or through removal of the CCR and decontamination of the CCR unit, as described in Subsections R315-319-102(b) through R315-319-102(j). Retrofit of a CCR surface impoundment shall be completed in accordance with the requirements in Subsection R315-319-102(k).

(b) Written closure plan.

(1) Content of the plan. The owner or operator of a CCR unit shall prepare a written closure plan that describes the steps necessary to close the CCR unit at any point during the active life of the CCR unit consistent with recognized and generally accepted good engineering practices. The written closure plan shall include, at a minimum, the information specified in Subsections R315-319-102(b)(1)(i) through R315-319-102(b)(1)(vi).

(i) A narrative description of how the CCR unit will be closed in accordance with Section R315-319-102.

(ii) If closure of the CCR unit will be accomplished through removal of CCR from the CCR unit, a description of the procedures to remove the CCR and decontaminate the CCR unit in accordance with Subsection R315-319-102(c).

(iii) If closure of the CCR unit will be accomplished by leaving CCR in place, a description of the final cover system, designed in accordance with Subsection R315-319-102(d), and the methods and procedures to be used to install the final cover. The closure plan shall also discuss how the final cover system will achieve the performance standards specified in Subsection R315-319-102(d).

(iv) An estimate of the maximum inventory of CCR ever on-site over the active life of the CCR unit.

(v) An estimate of the largest area of the CCR unit ever requiring a final cover as required by Subsection R315-319-102(d) at any time during the CCR unit's active life.

(vi) A schedule for completing ~~[all]~~all the activities necessary to satisfy the closure criteria in Section R315-319-102, including an estimate of the year in which ~~[all]~~all the closure activities for the CCR unit will be completed. The schedule should provide sufficient information to describe the sequential steps that will be taken to close the CCR unit, including identification of major milestones such as coordinating with and obtaining necessary approvals and permits from other agencies, the dewatering and stabilization phases of CCR

surface impoundment closure, or installation of the final cover system, and the estimated timeframes to complete each step or phase of CCR unit closure. When preparing the written closure plan, if the owner or operator of a CCR unit estimates that the time required to complete closure will exceed the timeframes specified in Subsection R315-319-102(f)(1), the written closure plan shall include the site-specific information, factors and considerations that would support any time extension sought under Subsection R315-319-102(f)(2).

(2) Timeframes for preparing the initial written closure plan.

(i) Existing CCR landfills and existing CCR surface impoundments. No later than October 17, 2016, the owner or operator of the CCR unit shall prepare an initial written closure plan consistent with the requirements specified in Subsection R315-319-102(b)(1).

(ii) New CCR landfills and new CCR surface impoundments, and any lateral expansion of a CCR unit. No later than the date of the initial receipt of CCR in the CCR unit, the owner or operator shall prepare an initial written closure plan consistent with the requirements specified in Subsection R315-319-102(b)(1).

(iii) The owner or operator has completed the written closure plan when the plan, including the certification required by Subsection R315-319-102(b)(4), has been placed in the facility's operating record as required by Subsection R315-319-105(i)(4).

(3) Amendment of a written closure plan.

(i) The owner or operator may amend the initial or any subsequent written closure plan developed pursuant to Subsection R315-319-102(b)(1) at any time.

(ii) The owner or operator shall amend the written closure plan when ~~ever~~:

(A) ~~There~~ there is a change in the operation of the CCR unit that would substantially affect the written closure plan in effect; or

(B) ~~Before~~ before or after closure activities have commenced, unanticipated events ~~necessitate~~ require a revision of the written closure plan.

(iii) The owner or operator shall amend the closure plan at least 60 days ~~prior to~~ before a planned change in the operation of the facility or CCR unit, or no later than 60 days after an unanticipated event requires the need to revise an existing written closure plan. If a written closure plan is revised after closure activities have commenced for a CCR unit, the owner or operator shall amend the current closure plan no later than 30 days following the triggering event.

(4) The owner or operator of the CCR unit shall ~~obtain~~ get a written certification from a qualified professional engineer that the initial and any amendment of the written closure plan meets the requirements of Section R315-319-102.

(c) Closure by removal of CCR. An owner or operator may elect to close a CCR unit by removing and decontaminating ~~all~~ any areas affected by releases from the CCR unit. CCR removal and decontamination of the CCR unit are complete when constituent concentrations throughout the CCR unit and any areas affected by releases from the CCR unit have been removed and groundwater monitoring concentrations do not exceed the groundwater protection standard established pursuant to Subsection R315-319-95(h) for constituents listed in ~~the~~ Appendix IV to Rule R315-319.

(d) Closure performance standard when leaving CCR in place.

(1) The owner or operator of a CCR unit shall ensure that, at a minimum, the CCR unit is closed in a manner that will:

(i) ~~Control~~ control, minimize, or eliminate, to the maximum extent feasible, post-closure infiltration of liquids into the waste and releases of CCR, leachate, or contaminated run-off to the ground or surface waters or to the atmosphere;

(ii) ~~Preclude~~ preclude the probability of future impoundment of water, sediment, or slurry;

(iii) ~~Include~~ include measures that provide for major slope stability to prevent the sloughing or movement of the final cover system during the closure and post-closure care period;

(iv) ~~Minimize~~ minimize the need for further maintenance of the CCR unit; and

(v) ~~Be~~ be completed in the shortest amount of time consistent with recognized and generally accepted good engineering practices.

(2) Drainage and stabilization of CCR surface impoundments. The owner or operator of a CCR surface impoundment or any lateral expansion of a CCR surface impoundment shall meet the requirements of Subsections R315-319-102(d)(2)(i) and R315-319-102(d)(ii) ~~prior to~~ before installing the final cover system required under Subsection R315-319-102(d)(3).

(i) Free liquids shall be eliminated by removing liquid wastes or solidifying the remaining wastes and waste residues.

(ii) Remaining wastes shall be stabilized sufficient to support the final cover system.

(3) Final cover system. If a CCR unit is closed by leaving CCR in place, the owner or operator shall install a final cover system that is designed to minimize infiltration and erosion, and at a minimum, meets the requirements of Subsection R315-319-102(d)(3)(i), or the requirements of the alternative final cover system specified in Subsection R315-319-102(d)(3)(ii).

(i) The final cover system shall be designed and constructed to meet the criteria in Subsections R315-319-102(d)(3)(i)(A) through R315-319-102(d)(3)(i)(D). The design of the final cover system shall be included in the written closure plan required by Subsection R315-319-102(b).

(A) The permeability of the final cover system shall be less than or equal to the permeability of any bottom liner system or natural subsoils present, or a permeability no greater than  $1 \times 10^{-5}$  cm/sec, whichever is less.

(B) The infiltration of liquids through the closed CCR unit shall be minimized by the use of an infiltration layer that contains a minimum of 18 inches of earthen material.

(C) The erosion of the final cover system shall be minimized by the use of an erosion layer that contains a minimum of six inches of earthen material that is capable of sustaining native plant growth.

(D) The disruption of the integrity of the final cover system shall be minimized through a design that accommodates settling and subsidence.

(ii) The owner or operator may select an alternative final cover system design, provided the alternative final cover system is designed and constructed to meet the criteria in Subsections R315-319-102(f)(3)(ii)(A) through r315-319-102(f)(3)(ii)(D). The design of the final cover system shall be included in the written closure plan required by Subsection R315-319-102(b).

(A) The design of the final cover system shall include an infiltration layer that achieves an equivalent reduction in infiltration as the infiltration layer specified in Subsections R315-319-102(d)(3)(i)(A) and R315-319-102(d)(3)(i)(B).

(B) The design of the final cover system shall include an erosion layer that provides equivalent protection from wind or water erosion as the erosion layer specified in Subsection R315-319-102(d)(3)(i)(C).

(C) The disruption of the integrity of the final cover system shall be minimized through a design that accommodates settling and subsidence.

(iii) The owner or operator of the CCR unit shall obtain a written certification from a qualified professional engineer that the design of the final cover system meets the requirements of Section R315-319-102.

(e) Initiation of closure activities. Except as provided for in Subsection R315-319-102(e)(4) and Section R315-319-103, the owner or operator of a CCR unit shall ~~[commence]~~begin closure of the CCR unit no later than the applicable timeframes specified in either Subsection R315-319-102(e)(1) or R315-319-102(e)(2).

(1) The owner or operator shall ~~[commence]~~begin closure of the CCR unit no later than 30 days after the date on which the CCR unit either:

(i) ~~[R]~~receives the known final receipt of waste, either CCR or any non-CCR waste stream; or

(ii) ~~[R]~~removes the known final volume of CCR from the CCR unit for ~~[the purpose of]~~beneficial use of CCR.

(2)(i) Except as provided by Subsection R315-319-102(e)(2)(ii), the owner or operator shall ~~[commence]~~begin closure of a CCR unit that has not received CCR or any non-CCR waste stream or is no longer removing CCR for ~~[the purpose of]~~beneficial use within two years of the last receipt of waste or within two years of the last removal of CCR material for ~~[the purpose of]~~beneficial use.

(ii) Notwithstanding Subsection R315-319-102(e)(2)(i), the owner or operator of the CCR unit may secure an additional two years to initiate closure of the idle unit provided the owner or operator provides written documentation that the CCR unit will continue to accept wastes or will start removing CCR for ~~[the purpose of]~~beneficial use. The documentation shall be supported by, at a minimum, the information specified in Subsections R315-319-102(e)(2)(ii)(A) and R315-319-102(e)(2)(ii)(B). The owner or operator may obtain two-year extensions provided the owner or operator continues to be able to demonstrate that there is reasonable likelihood that the CCR unit will accept wastes in the foreseeable future or will remove CCR from the unit for ~~[the purpose of]~~beneficial use. The owner or operator shall place each completed demonstration, if more than one time extension is sought, in the facility's operating record as required by Subsection R315-319-105(i)(5) ~~[prior to]~~before the end of any two-year period.

(A) Information documenting that the CCR unit has remaining storage or disposal capacity or that the CCR unit can have CCR removed for ~~[the purpose of]~~beneficial use; and

(B) Information demonstrating that there is a reasonable likelihood that the CCR unit will resume receiving CCR or non-CCR waste streams in the foreseeable future or that CCR can be removed for ~~[the purpose of]~~beneficial use. The narrative shall include a best estimate as to when the CCR unit will resume receiving CCR or non-CCR waste streams. The situations listed in Subsections R315-319-102(e)(2)(ii)(B)(~~[4]I~~) through R315-319-102(e)(2)(ii)(B)(~~[4]IV~~) are examples of situations that would support a determination that the CCR unit will resume receiving CCR or non-CCR waste streams in the foreseeable future.

(~~[4]I~~) Normal plant operations include periods during which the CCR unit does not receive CCR or non-CCR waste streams, such as the alternating use of two or more CCR units whereby at any point in time one CCR unit is receiving CCR while CCR is being removed from a second CCR unit after its dewatering.

(~~[2]II~~) The CCR unit is dedicated to a coal-fired boiler unit that is temporarily idled, ~~[e.g.]~~for example, CCR is not being generated, and there is a reasonable likelihood that the coal-fired boiler will resume operations in the future.

(~~[3]III~~) The CCR unit is dedicated to an operating coal-fired boiler, ~~[i.e.]~~that is, CCR is being generated; however, no CCR are being placed in the CCR unit because the CCR are being entirely diverted to beneficial uses, but there is a reasonable likelihood that the CCR unit will again be used in the foreseeable future.

(~~[4]IV~~) The CCR unit currently receives only non-CCR waste streams and those non-CCR waste streams are not generated for an extended period~~[of time]~~, but there is a reasonable likelihood that the CCR unit will again receive non-CCR waste streams in the future.

(iii) ~~[In order to obtain]~~To get additional time extension~~[{s}]~~ to initiate closure of a CCR unit beyond the two years provided by Subsection R315-319-102(e)(2)(i), the owner or operator of the CCR unit shall include with the demonstration required by Subsection R315-319-102(e)(2)(ii) the following statement signed by the owner or operator or an authorized representative:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

(3) For purposes of Sections R315-319-50 through R315-319-107, closure of the CCR unit has commenced if the owner or operator has ceased placing waste and completes any of ~~[the following]~~actions or activities listed in Subsections R315-319-102(e)(3)(i) through R315-319-102(e)(3)(iii):

(i) ~~[F]~~taken any steps necessary to implement the written closure plan required by Subsection R315-319-102(b);

(ii) ~~[S]~~submitted a completed application for any required state or agency permit or permit modification; or

(iii) ~~[F]~~taken any steps necessary to comply with any state or other agency standards that are a prerequisite, or are otherwise applicable, to initiating or completing the closure of a CCR unit.

(4) The timeframes specified in Subsections R315-319-102(e)(1) and R315-319-102(e)(2) do not apply to~~[any of the following owners or operators]~~:

(i) ~~[An owner or operator of an inactive CCR surface impoundment closing the CCR unit as required by Subsection R315-319-100(b)]~~Reserved;

## NOTICES OF PROPOSED RULES

(ii) ~~[A]~~an owner or operator of an existing unlined CCR surface impoundment closing the CCR unit as required by Subsection R315-319-101(a);

(iii) ~~[A]~~an owner or operator of an existing CCR surface impoundment closing the CCR unit as required by Subsection R315-319-101(b);

(iv) ~~[A]~~an owner or operator of a new CCR surface impoundment closing the CCR unit as required by Subsection R315-319-101(c); or

(v) ~~[A]~~an owner or operator of an existing CCR landfill closing the CCR unit as required by Subsection R315-319-101(d).

(f) Completion of closure activities.

(1) Except as provided for in Subsection R315-319-102(f)(2), the owner or operator shall complete closure of the CCR unit:

(i) For existing and new CCR landfills and any lateral expansion of a CCR landfill, within six months of commencing closure activities.

(ii) For existing and new CCR surface impoundments and any lateral expansion of a CCR surface impoundment, within five years of commencing closure activities.

(2)(i) Extensions of closure timeframes. The timeframes for completing closure of a CCR unit specified under Subsection R315-319-102(f)(1) may be extended if the owner or operator can demonstrate that it was not feasible to complete closure of the CCR unit within the required timeframes due to factors beyond the facility's control. If the owner or operator is seeking a time extension beyond the time specified in the written closure plan as required by Subsection R315-319-102(b)(1), the demonstration shall include a narrative discussion providing the basis for additional time beyond that specified in the closure plan. The owner or operator shall place each completed demonstration, if more than one time extension is sought, in the facility's operating record as required by Subsection R315-319-105(i)(6) ~~[prior to]~~ before the end of any two-year period. Factors that may support ~~[such a]~~ the demonstration include:

(A) ~~[C]~~complications stemming from the climate and weather, such as unusual amounts of precipitation or a significantly shortened construction season;

(B) ~~[F]~~time required to dewater a surface impoundment due to the volume of CCR contained in the CCR unit or the characteristics of the CCR in the unit;

(C) ~~[F]~~the geology and terrain surrounding the CCR unit will affect the amount of material needed to close the CCR unit; or

(D) ~~[F]~~time required or delays caused by the need to coordinate with and obtain necessary approvals and permits from a state or other agency.

(ii) Maximum time extensions.

(A) CCR surface impoundments of 40 acres or smaller may extend the time to complete closure by no longer than two years.

(B) CCR surface impoundments larger than 40 acres may extend the timeframe to complete closure of the CCR unit multiple times, in two-year increments. For each two-year extension sought, the owner or operator shall substantiate the factual circumstances demonstrating the need for the extension. No more than a total of five two-year extensions may be obtained for any CCR surface impoundment.

(C) CCR landfills may extend the timeframe to complete closure of the CCR unit multiple times, in one-year increments. For each one-year extension sought, the owner or operator shall substantiate the factual circumstances demonstrating the need for the extension. No more than a total of two one-year extensions may be obtained for any CCR landfill.

(iii) ~~[In order to obtain]~~ To get additional time extension~~[s]~~ to complete closure of a CCR unit beyond the times provided by Subsection R315-319-102(f)(1), the owner or operator of the CCR unit shall include with the demonstration required by Subsection R315-319-102(f)(2)(i) the following statement signed by the owner or operator or an authorized representative:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

(3) Upon completion, the owner or operator of the CCR unit shall obtain a certification from a qualified professional engineer verifying that closure has been completed in accordance with the closure plan specified in Subsection R315-319-102(b) and the requirements of Section R315-319-102.

(g) No later than the date the owner or operator initiates closure of a CCR unit, the owner or operator shall prepare a notification of intent to close a CCR unit. The notification shall include the certification by a qualified professional engineer for the design of the final cover system as required by Subsection R315-319-102(d)(3)(iii), if applicable. The owner or operator has completed the notification when it has been placed in the facility's operating record as required by Subsection R315-319-105(i)(7).

(h) Within 30 days of completion of closure of the CCR unit, the owner or operator shall prepare a notification of closure of a CCR unit. The notification shall include the certification by a qualified professional engineer as required by Subsection R315-319-102(f)(3). The owner or operator has completed the notification when it has been placed in the facility's operating record as required by Subsection R315-319-105(i)(8).

(i) Deed notations.

(1) Except as provided by Subsection R315-319-102(i)(4), following closure of a CCR unit, the owner or operator shall record a notation on the deed to the property, or some other instrument that is normally examined during title search.

(2) The notation on the deed shall in perpetuity notify any potential purchaser of the property that:

(i) The land has been used as a CCR unit; and

(ii) Its use is restricted under the post-closure care requirements as provided by Subsection R315-319-104(d)(1)(iii).

(3) Within 30 days of recording a notation on the deed to the property, the owner or operator shall prepare a notification stating that the notation has been recorded. The owner or operator has completed the notification when it has been placed in the facility's operating record as required by Subsection R315-319-105(i)(9).

(4) An owner or operator that closes a CCR unit in accordance with Subsection R315-319-102(c) is not subject to the requirements of Subsections R315-319-102(i)(1) through R315-319-102(i)(3).

(j) The owner or operator of the CCR unit shall comply with the closure recordkeeping requirements specified in Subsection R315-319-105(i), the closure notification requirements specified in Subsection R315-319-106(i), and the closure ~~[H]~~internet requirements specified in Subsection R315-319-107(i).

(k) Criteria to retrofit an existing CCR surface impoundment.

(1) To retrofit an existing CCR surface impoundment, the owner or operator shall:

(i) First remove ~~[aH]~~any CCR, including any contaminated soils and sediments from the CCR unit; and

(ii) Comply with the requirements in S~~[ub]~~section R315-319-72.

(iii) A CCR surface impoundment undergoing a retrofit remains subject to ~~[aH]~~the other requirements of Sections R315-319-50 through ~~R315-319-~~107, including the requirement to conduct any necessary corrective action.

(2) Written retrofit plan.

(i) Content of the plan. The owner or operator shall prepare a written retrofit plan that describes the steps necessary to retrofit the CCR unit consistent with recognized and generally accepted good engineering practices. The written retrofit plan shall include, at a minimum~~[, all of the following information]~~:

(A) ~~[A]~~a narrative description of the specific measures that will be taken to retrofit the CCR unit in accordance with Section R315-319-102.

(B) ~~[A]~~a description of the procedures to remove ~~[aH]~~the CCR and contaminated soils and sediments from the CCR unit.

(C) ~~[A]~~an estimate of the maximum amount of CCR that will be removed as part of the retrofit operation.

(D) ~~[A]~~an estimate of the largest area of the CCR unit that will be affected by the retrofit operation.

(E) ~~[A]~~a schedule for completing ~~[aH]~~the activities necessary to satisfy the retrofit criteria in Section R315-319-102, including an estimate of the year in which retrofit activities of the CCR unit will be completed.

(ii) Timeframes for preparing the initial written retrofit plan.

(A) No later than 60 days ~~[prior to]~~before the date of initiating retrofit activities, the owner or operator shall prepare an initial written retrofit plan consistent with the requirements specified in Subsection R315-319-102(k)(2). For purposes of Sections R315-319-50 through ~~R315-319-~~107, initiation of retrofit activities has commenced if the owner or operator has ceased placing waste in the unit and completes any of the ~~[following]~~ actions or activities listed in Subsections R315-319-102(k)(2)(ii)(A)(I) through R315-319-102(k)(2)(ii)(A)(III):

~~[(1)]I~~ ~~[F]~~taken any steps necessary to implement the written retrofit plan;~~and~~

~~[(2)]II~~ ~~[S]~~submitted a completed application for a permit or permit modification;~~or~~

[(III)] taken any steps necessary to comply with any state or other agency standards that are a prerequisite, or are otherwise applicable, to initiating or completing the retrofit of a CCR unit.

(B) The owner or operator has completed the written retrofit plan when the plan, including the certification required by Subsection R315-319-102(k)(2)(iv), has been placed in the facility's operating record as required by Subsection R315-319-105(j)(1).

(iii) Amendment of a written retrofit plan.

(A) The owner or operator may amend the initial or any subsequent written retrofit plan at any time.

(B) The owner or operator shall amend the written retrofit plan when~~[ever]~~:

~~[(1)]I~~ ~~[F]~~there is a change in the operation of the CCR unit that would substantially affect the written retrofit plan in effect; or

~~[(2)]II~~ ~~[B]~~before or after retrofit activities have commenced, unanticipated events ~~[necessitate]~~require a revision of the written retrofit plan.

(C) The owner or operator shall amend the retrofit plan at least 60 days ~~[prior to]~~before a planned change in the operation of the facility or CCR unit, or no later than 60 days after an unanticipated event requires the revision of an existing written retrofit plan. If a written retrofit plan is revised after retrofit activities have commenced for a CCR unit, the owner or operator shall amend the current retrofit plan no later than 30 days following the triggering event.

(iv) The owner or operator of the CCR unit shall obtain a written certification from a qualified professional engineer that the activities outlined in the written retrofit plan, including any amendment of the plan, meet the requirements of Section R315-319-102.

(3) Deadline for completion of activities related to the retrofit of a CCR unit. Any CCR surface impoundment that is being retrofitted shall complete ~~[aH]~~the retrofit activities within the same time frames and procedures specified for the closure of a CCR surface impoundment in Subsection R315-319-102(f) or, where applicable, S~~[ub]~~section R315-319-103.

(4) Upon completion, the owner or operator shall obtain a certification from a qualified professional engineer verifying that the retrofit activities have been completed in accordance with the retrofit plan specified in Subsection R315-319-102(k)(2) and the requirements of Section R315-319-102.

(5) No later than the date the owner or operator initiates the retrofit of a CCR unit, the owner or operator shall prepare a notification of intent to retrofit a CCR unit. The owner or operator has completed the notification when it has been placed in the facility's operating record as required by Subsection R315-319-105(j)(5).

(6) Within 30 days of completing the retrofit activities specified in Subsection R315-319-102(k)(1), the owner or operator shall prepare a notification of completion of retrofit activities. The notification shall include the certification by a qualified professional engineer as required by Subsection R315-319-102~~[-]~~(k)(4). The owner or operator has completed the notification when it has been placed in the facility's operating record as required by Subsection R315-319-105(j)(6).

(7) At any time after the initiation of a CCR unit retrofit, the owner or operator may ~~[cease]~~stop the retrofit and initiate closure of the CCR unit in accordance with the requirements of ~~S[ubs]~~section R315-319-102.

(8) The owner or operator of the CCR unit shall comply with the retrofit recordkeeping requirements specified in Subsection R315-319-105(j), the retrofit notification requirements specified in Subsection R315-319-106(j), and the retrofit ~~[F]~~internet requirements specified in Subsection R315-319-107(j).

**R315-319-103. Closure and Post-Closure Care - Alternative Closure Requirements.**

The owner or operator of a CCR landfill, CCR surface impoundment, or any lateral expansion of a CCR unit that is subject to closure pursuant to Subsection R315-319-101(a), R315-319-101(b)(1), or R315-319-101(d) may continue to receive CCR in the unit if the owner or operator meets the requirements of either Subsection R315-319-103(a), ~~[or]~~ R315-319-103(b) R315-319-103(f)(1) or R315-319-103(f)(2).

(a) CCR landfills.

(1) No alternative CCR disposal capacity. Notwithstanding Subsection R315-319-101(a), R315-319-101(b)(1), or R315-319-101(d), a CCR ~~[unit]~~landfill may continue to receive CCR if the owner or operator of the CCR ~~[unit]~~landfill certifies that the CCR shall continue to be managed in that CCR ~~[unit]~~landfill due to the absence of alternative disposal capacity both on-site and off-site of the facility. To qualify under Subsection R315-319-103(a)(1), the owner or operator of the CCR unit shall document that each of the ~~[following]~~ conditions listed in Subsections R315-319-103(a)(1)(i) through R315-319-103(a)(1)(iv) have been met:

(i) no alternative disposal capacity is available on-site or off-site. An increase in costs or the inconvenience of existing capacity is not sufficient to support qualification under Section R315-319-103;

(ii) the owner or operator has made, and continues to make, efforts to get additional capacity. Qualification under ~~[this]~~ s]Subsection R315-319-103(a) lasts only as long as no alternative capacity is available. Once alternative capacity is identified, the owner or operator shall arrange to use the capacity as soon as feasible;

(iii) the owner or operator shall remain in compliance with each of the requirements of Sections R315-319-50 through R315-319-107, including the requirement to conduct any necessary corrective action; and

(iv) the owner or operator shall prepare an annual progress report documenting the continued lack of alternative capacity and the progress toward[s] the development of alternative CCR disposal capacity.

(2) Once alternative capacity is available, the CCR unit shall stop receiving CCR and initiate closure following the timeframes in Subsections R315-319-102(e) and R315-319-102(f).

(3) If no alternative capacity is identified within five years after the initial certification, the CCR unit shall ~~stop~~cease receiving CCR and close in accordance with the timeframes in Subsections R315-319-102(e) and R315-319-102(f).

(b) CCR landfills.

(1) Permanent cessation of a coal-fired boiler by a date certain. Notwithstanding Subsection~~s~~ R315-319-101(a), R315-319-101(b)(1), and R315-319-101(d), a CCR unit may continue to receive CCR if the owner or operator certifies that the facility will stop operation of the coal-fired boilers within the timeframes specified in Subsection~~s~~ R315-319-103(b)(2) through R315-319-103(b)(4), but in the interim period, before closure of the coal-fired boiler, the facility shall continue to use the CCR unit due to the absence of alternative disposal capacity both on-site and off-site of the facility. To qualify under~~[this]~~ Subsection R315-319-103(b)(1), the owner or operator of the CCR unit shall document that each of the ~~[following]~~ conditions listed in Subsections R315-319-103(b)(1)(i) through R315-319-103(b)(1)(iii) have been met:

(i) no alternative disposal capacity is available on-site or off-site. An increase in costs or the inconvenience of existing capacity is not sufficient to support qualification under Section R315-319-103;

(ii) the owner or operator shall remain in compliance with each of the requirements of Sections R315-319-50 through R315-319-107, including the requirement to conduct any necessary corrective action; and

(iii) the owner or operator shall prepare an annual progress report documenting the continued lack of alternative capacity and the progress toward[s] the closure of the coal-fired boiler.

(2) ~~[For a CCR surface impoundment that is 40 acres or smaller, the coal-fired boiler shall stop operation and the CCR surface impoundment shall have finished closure no later than October 17, 2023.]Reserved.~~

(3) ~~[For a CCR surface impoundment that is larger than 40 acres, the coal-fired boiler shall stop operation, and the CCR surface impoundment shall finish closure no later than October 17, 2028.]Reserved.~~

(4) For a CCR landfill, the coal-fired boiler shall stop operation, and the CCR landfill shall finish closure no later than April 19, 2021.

(c) Required notices and progress reports for CCR landfills. An owner or operator of a CCR unit that closes in accordance with Subsection R315-319-103(a) or R315-319-103(b) shall finish the notices and progress reports specified in Subsections R315-319-103(c)(1) through R315-319-103(c)(3).

(1) Within six months of becoming subject to closure pursuant to Subsection R315-319-101(a), R315-319-101(b)(1), or R315-319-101(d), the owner or operator shall prepare and place in the facility's operating record a notification of intent to comply with the alternative closure requirements of Section R315-319-103. The notification shall describe why the CCR unit qualifies for the alternative closure provisions under either Subsection R315-319-103(a) or R315-319-103(b), in addition to providing the documentation and certifications required by Subsection R315-319-103(a) or R315-319-103(b).

(2) The owner or operator shall prepare the periodic progress reports required by Subsection R315-319-103(a)(1)(iv) or R315-319-103(b)(1)(iii), in addition to describing any problems encountered and a description of the actions taken to resolve the problems. The annual progress reports shall be finished according to the ~~[following]~~ schedule in Subsections R315-319-103(c)(2)(i) through R315-319-103(c)(2)(iii):



(i) The first annual progress report shall be prepared no later than 13 months after completing the notification of intent to comply with the alternative closure requirements required by Subsection R315-319-103(c)(1).

(ii) The second annual progress report shall be prepared no later than 12 months after completing the first annual progress report. Additional annual progress reports shall be prepared within 12 months of completing the previous annual progress report.

(iii) The owner or operator has finished the progress reports specified in Subsection R315-319-103(c)(2) when the reports are placed in the facility's operating record as required by Subsection R315-319-105(i)(~~[40]~~11).

(3) An owner or operator of a CCR ~~unit~~ landfill shall also prepare the notification of intent to close a CCR unit as required by Subsection R315-319-102(g).

(d) CCR landfill recordkeeping. The owner or operator of the CCR unit shall comply with the recordkeeping requirements specified in Subsection R315-319-105(i), the notification requirements specified in Subsection R315-319-106(i), and the ~~[4]~~internet requirements specified in Subsection R315-319-107(i).

(e) Reserved.

(f) Site-specific alternative deadlines to initiate closure of CCR surface impoundments. Notwithstanding Subsections R315-319-101(a) and R315-319-101(b)(1), a CCR surface impoundment may continue to receive the waste specified in Subsection R315-319-103(f)(1) or R315-319-103(f)(1)(2), provided the owner or operator submits a demonstration that the criteria in either Subsection R315-319-103(f)(1) or R315-319-103(f)(1)(2) have been met. The demonstration shall be submitted to the director no later than the relevant deadline in Subsection R315-319-103(f)(3). The director will act on the submission in accordance with the procedures in Subsection R315-319-103(f)(3).

(1) Development of alternative capacity is technically feasible. Notwithstanding Subsections R315-319-101(a) and R315-319-101(b)(1), a CCR surface impoundment may continue to receive the waste specified in Subsection R315-319-103(f)(1)(i)(A) or R315-319-103(f)(1)(i)(B), provided the owner or operator demonstrates the wastestreams shall continue to be managed in that CCR surface impoundment because it was technically infeasible to complete the measures necessary to provide alternative disposal capacity on or off-site of the facility by April 11, 2021. To get approval under Subsection R315-319-103(f)(1), each criteria of R315-319-103(f)(1)(i) through R315-319-103(f)(1)(xiii) shall be met:

(i) No alternative disposal capacity is available on or off-site. An increase in costs or the inconvenience of existing capacity is not sufficient to support qualification under Section R315-319-103.

(ii)(A) For units closing pursuant to Subsections R315-319-101(a) and R315-319-101(b)(1)(i), CCR or non-CCR, or both, wastestreams, shall continue to be managed in that CCR surface impoundment because it was technically infeasible to complete the measures necessary to obtain alternative disposal capacity either on or off-site of the facility by April 1, 2021.

(B) For units closing pursuant to Subsection R315-319-101(b)(1)(ii), CCR shall continue to be managed in that CCR surface impoundment because it was technically infeasible to complete the measures necessary to get alternative disposal capacity either on or off-site of the facility by April 11, 2021.

(iii) The facility is in compliance with the requirements of Rule R315-319.

(iv) The owner or operator of the CCR surface impoundment shall submit documentation that the criteria in Subsections R315-319-103(f)(1)(i) through R315-319-103(f)(1)(iii) have been met by submitting to the director the information listed in Subsections R315-319-103(f)(1)(iv)(A) and R315-319-103(f)(1)(iv)(B):

(A) To demonstrate that the criteria in Subsections R315-319-103(f)(1)(i) and R315-319-103(f)(1)(ii) have been met the owner or operator shall submit a workplan that contains the elements listed in Subsections R315-319-103(f)(1)(iv)(A)(I) through R315-319-103(f)(1)(iv)(A)(IV):

(I) a written narrative discussing the options considered both on and off-site to get alternative capacity for each CCR or non-CCR, or both, wastestreams, the technical infeasibility of getting alternative capacity before April 11, 2021, and the option selected and justification for the alternative capacity selected. The narrative shall also include:

(1) an in-depth analysis of the site and any site-specific conditions that led to the decision to select the alternative capacity being developed;

(2) an analysis of the adverse impact to plant operations if the CCR surface impoundment in question were to no longer be available for use; and

(3) a detailed explanation and justification for the amount of time being requested and how it is the fastest technically feasible time to complete the development of the alternative capacity;

(II) a detailed schedule of the fastest technically feasible time to complete the measures necessary for alternative capacity to be available including a visual timeline representation. The visual timeline shall clearly show:

(1) how each phase and the steps within that phase interact with or are dependent on each other and the other phases;

(2) the steps and phases that can be completed concurrently;

(3) the total time needed to obtain the alternative capacity and how long each phase and step within each phase will take; and

(4) at a minimum, the following phases: engineering and design, contractor selection, equipment fabrication and delivery, construction, and start up and implementation;

(III) a narrative discussion of the schedule and visual timeline representation, that shall discuss:

(1) why the length of time for each phase and step is needed and a discussion of the tasks that occur during the specific step;

(2) why each phase and step shown on the chart has to happen in the order it is occurring;

(3) the tasks that occur during each of the steps within the phase; and

(4) anticipated worker schedules; and

(IV) a narrative discussion of the progress the owner or operator has made to obtain alternative capacity for the CCR or non-CCR, or both, wastestreams. The narrative shall discuss the steps taken, starting from when the owner or operator initiated the design phase up to

the steps occurring when the demonstration is being compiled. It shall discuss where the facility currently is on the timeline and the efforts that are currently being undertaken to develop alternative capacity.

(B) To demonstrate that the criteria in Subsection R315-319-103(f)(1)(iii) have been met, the owner or operator shall submit:

(I) a certification signed by the owner or operator that the facility is in compliance with the requirements of Rule R315-319;

(II) visual representation of hydrogeologic information at and around the CCR units that supports the design, construction, and installation of the groundwater monitoring system. This includes:

(1) maps of groundwater monitoring well locations in relation to the CCR units;

(2) well construction diagrams and drilling logs for each groundwater monitoring well; and

(3) maps that characterize the direction of groundwater flow accounting for seasonal variations;

(III) constituent concentrations, summarized in table form, at each groundwater monitoring well monitored during each sampling event;

(IV) a description of site hydrogeology including stratigraphic cross sections;

(V) any corrective measures assessment conducted as required in Section R315-319-96;

(VI) any progress reports on corrective action remedy selection and design and the report of final remedy selection required in Subsection R315-319-97(a);

(VII) the most recent structural stability assessment required in Subsection R315-319-73(d); and

(VIII) the most recent safety factor assessment required in Subsection R315-319-73(e).

(v) As soon as alternative capacity for any CCR or non-CCR wastestream is available, the CCR surface impoundment shall stop receiving that CCR or non-CCR wastestream. Once the CCR surface impoundment ceases receipt of the CCR or non-CCR, or both, wastestreams, the CCR surface impoundment shall initiate closure in accordance with the timeframes in Subsections R319-315-102(e) and R319-315-102(f).

(vi) Maximum time frames. Any CCR surface impoundments covered by Subsection R315-319-103(f)(1) shall stop receiving waste by the deadlines specified in Subsections R315-319-103(f)(1)(vi)(A) and R315-319-103(f)(1)(vi)(B) and close in accordance with the timeframes in Subsections R315-319-102(e) and R319-315-102(f).

(A) Except as provided by Subsection R315-319-103(f)(1)(iv)(B), no later than October 15, 2023.

(B) An eligible unlined CCR surface impoundment shall stop receiving CCR or non-CCR, or both, wastestreams no later than October 15, 2024. To continue to operate until October 15, 2024, the owner or operator shall demonstrate that the unit meets the definition of an eligible unlined CCR surface impoundment found in Subsection R315-319-53(a)(21).

(vii) An owner or operator may seek additional time beyond the time granted in the initial approval by making the showing in Subsections R315-319-103(f)(1)(i) through R315-319-103(f)(1)(iv), except that no facility may be granted time to operate the impoundment beyond the maximum allowable time frames provided in Subsection R315-319-103(f)(1)(vi).

(viii) The owner or operator bears responsibility for demonstrating qualification under Section R315-319-103. Failure to remain in compliance with any of the requirements of Rule R315-319 will result in the automatic loss of authorization under Section R315-319.

(ix) The owner or operator shall:

(A) Upon submission of the demonstration to the director, prepare and place in the facility's operating record a notification that it has submitted the demonstration, along with a copy of the demonstration. An owner or operator that makes a claim of business confidentiality (CBI) in accordance with Section 63G-2-309 in the demonstration may post a redacted version of the demonstration to its publicly accessible CCR internet site provided that it contains sufficient detail so that the public can meaningfully comment on the demonstration.

(B) Upon receipt of a decision pursuant to Subsection R315-319-103(f)(3), prepare and place in the facility's operating record a copy of the decision.

(C) If an extension of an approved deadline pursuant to Subsection R315-319-103(f)(1)(vii) has been requested, place a copy of the request submitted to the director in the facility's operating record.

(x) The owner or operator shall prepare semiannual progress reports. The semiannual progress reports shall contain:

(A) discussion of the progress made to date in obtaining alternative capacity, including:

(I) discussion of the current stage of obtaining the capacity in reference to the timeline required under Subsection R315-319-103(f)(1)(iv)(A);

(II) discussion of whether the owner or operator is on schedule for getting alternative capacity; and

(III) if the owner or operator is not on or ahead of schedule for getting alternative capacity, include:

(1) discussion of any problems encountered, and a description of the actions taken or planned to resolve the problems and get back on schedule; and

(2) discussion of the goals for the next six months and major milestones to be achieved for obtaining alternative capacity; and

(B) discussion of any planned operational changes at the facility.

(xi) The progress reports shall be completed according to the schedule in Subsections R315-319-103(f)(1)(xi)(A) through R315-319-103(f)(1)(xi)(C):

(A) The semiannual progress reports shall be prepared no later than April 30 and October 31 of each year during the alternative stop receipt of waste deadline.

(B) The first semiannual progress report shall be prepared by whichever date, April 30 or October 31, is soonest after receiving approval from the director.

(C) The owner or operator has completed the progress reports specified in Subsection R315-319-103(f)(1)(x) when the reports have been placed in the facility's operating record as required by Subsection R315-319-105(i)(17).

(xii) The owner or operator shall prepare the notification of intent to close a CCR surface impoundment as required by Subsection R315-319-102(g).

(xiii) The owner or operator shall comply with the recordkeeping requirements specified in Subsection R315-319-105(i), the notification requirements specified in Subsection R315-319-106(i), and the internet posting requirements in Subsection R315-319-107(i).

(2) Permanent cessation of a coal-fired boilers by a date certain. Notwithstanding Subsections R315-319-101(a), and R315-319-101(b)(1), a CCR surface impoundment may continue to receive CCR or non-CCR, or both, wastestreams if the facility will stop operation of the coal-fired boilers and complete closure of the impoundment within the timeframes specified in Subsection R315-319-103(f)(2)(iv), but in the interim period, before closure of the coal-fired boiler, the facility shall continue to use the CCR surface impoundment due to the absence of alternative disposal capacity both on and off-site of the facility. To qualify under Subsection R315-319-103(f)(2) each criteria in Subsections R315-319-103(f)(2)(i) through R315-319-103(f)(2)(x) shall be met:

(i) no alternative disposal capacity is available on or off-site. An increase in costs or the inconvenience of existing capacity is not sufficient to support qualification under Section R315-319-103;

(ii) potential risks to human health and the environment from the continued operation of the CCR surface impoundment have been adequately mitigated;

(iii) the facility is in compliance with the other requirements of Rule R315-319, including the requirement to conduct any necessary corrective action; and

(iv) the coal-fired boilers shall stop operation and closure of the impoundment shall be completed within the timeframes listed in Subsections R315-319-103(f)(2)(iv)(A) and R315-319-103(f)(2)(iv)(B):

(A) for a CCR surface impoundment that is 40 acres or smaller, the coal-fired boilers shall stop operation and the CCR surface impoundment shall complete closure no later than October 17, 2023; and

(B) for a CCR surface impoundment that is larger than 40 acres, the coal-fired boilers shall stop operation, and the CCR surface impoundment shall complete closure no later than October 17, 2028;

(v) The owner or operator of the CCR surface impoundment shall submit documentation that the criteria in Subsections R315-319-103(f)(2)(i) through R315-319-103(f)(2)(iv) have been met as specified in Subsections R315-319-103(f)(2)(v)(A) through R315-319-103(f)(2)(v)(D):

(A) to demonstrate that the criteria in Subsection R315-319-103(f)(2)(i) have been met the owner or operator shall submit a narrative that explains the options considered to get alternative capacity for CCR or non-CCR, or both, wastestreams both on and off-site;

(B) to demonstrate that the criteria in Subsection R315-319-103(f)(2)(ii) have been met the owner or operator shall submit a risk mitigation plan describing the measures that will be taken to expedite any required corrective action, and that contains:

(I) a discussion of any physical or chemical measures a facility can take to limit any future releases to groundwater during operation;

(II) a discussion of the surface impoundment's groundwater monitoring data and any found exceedances, the delineation of the plume, if necessary based on the groundwater monitoring data, identification of any nearby receptors that might be exposed to current or future groundwater contamination, and how the exposures could be promptly mitigated; and

(III) a plan to expedite and maintain the containment of any contaminant plume that is either present or identified during continued operation of the unit;

(C) to demonstrate that the criteria in Subsection R315-319-103(f)(2)(iii) have been met, the owner or operator shall submit:

(I) a certification signed by the owner or operator that the facility is in compliance with the requirements of Rule R315-319;

(II) visual representation of hydrogeologic information at and around the CCR units that supports the design, construction, and installation of the groundwater monitoring system. This includes:

(1) maps of groundwater monitoring well locations in relation to the CCR unit;

(2) well construction diagrams and drilling logs for each groundwater monitoring well; and

(3) maps that characterize the direction of groundwater flow accounting for seasonal variations;

(III) constituent concentrations, summarized in table form, at each groundwater monitoring well monitored during each sampling event;

(IV) description of site hydrogeology including stratigraphic cross sections;

(V) any corrective measures assessment required in Section R315-319-96;

(VI) any progress reports on remedy selection and design and the report of final remedy selection required in Subsection R315-319-97(a);

(VII) the most recent structural stability assessment required in Subsection R315-319-73(d); and

(VIII) the most recent safety factor assessment required in Subsection R315-319-73(e); and

(D) to demonstrate that the criteria in Subsection R315-319-103(f)(2)(iv) have been met, the owner or operator shall submit the closure plan required in Subsection R315-319-102(b) and a narrative that specifies and justifies the date by which they intend to stop receipt of waste into the unit to meet the closure deadlines;

(vi) the owner or operator bears responsibility for demonstrating qualification for authorization under Section R315-319-103. Failure to remain in compliance with any of the requirements of Rule R315-319 will result in the automatic loss of authorization under Section R315-319-103;

(vii) the owner or operator shall comply with the recordkeeping requirements specified in Subsection R315-319-105(i), the notification requirements specified in Subsection R315-319-106(i), and the internet posting requirements in Subsection R315-319-107(i);

(viii) upon submission of the demonstration to the director the owner or operator shall prepare and place in the facility's operating record and on its publicly accessible CCR internet site a notification that is has submitted a demonstration along with a copy of the demonstration;

(ix) upon receipt of a decision pursuant to Subsection R315-319-103(f)(3), the owner or operator shall place a copy of the decision in the facility's operating record and on the facility's publicly accessible CCR internet site; and

(x) the owner or operator shall prepare an annual progress report documenting the continued lack of alternative capacity and the progress toward the closure of the CCR surface impoundment. The owner or operator has completed the progress report when the report has been placed in the facility's operating record as required by Subsection R315-319-105(i)(20).

(3) Process to get authorization.

(i) Deadlines for Submission.

(A) Except as provided by Subsections R315-319-71(d)(2)(iii)(E) and R315-319-71(d)(2)(viii), the owner or operator shall submit the demonstration required under Subsection R315-319-103(f)(1)(iv), for an alternative deadline to stop receipt of waste pursuant to Subsection R315-319-103(f)(1), to the director for approval no later than November 30, 2020.

(B) An owner or operator may seek additional time beyond the time granted in the initial approval, in accordance with Subsection R315-319-103(f)(1)(vii), by submitting a new demonstration, as required under Subsection R315-319-103(f)(1)(iv), to the director for approval, no later than 14 days from determining that the stop receipt of waste deadline will not be met.

(C) Except as provided by Subsections R315-319-71(d)(2)(iii)(E) and R315-319-71(d)(2)(viii), the owner or operator shall submit the demonstration required under Subsection R315-319-103(f)(2)(v) to the director for approval no later than November 30, 2020.

(ii) The director will evaluate the demonstration and may request additional information to complete the review. Submission of a complete demonstration will toll the facility's deadline to stop receipt of waste until issuance of a decision under Subsection R315-319-103(f)(3)(iv). Incomplete submissions will not toll the facility's deadline and will be rejected without further process. Decisions issued under Subsection R315-319-103(f)(3)(ii) or R315-319-103(f)(3)(iv) will contain the facility's deadline to stop receipt of waste.

(iii) The director will publish the proposed decision on a complete demonstration on the UDEQ's website for a 15-day comment period. If the demonstration is particularly complex, the director will provide a comment period of 20 to 30 days.

(iv) After consideration of the comments, the director will issue a decision on the alternative compliance deadline within four months of receiving a complete demonstration.

(4) Transferring between site-specific alternatives. An owner or operator authorized to continue operating a CCR surface impoundment under Section R315-319-103 may at any time request authorization to transfer between operating the impoundment pursuant to Subsection R315-319-103(f)(1) or R315-319-103(f)(2), by submitting the information in Subsection R315-319-103(f)(4)(i) or R315-319-103(f)(4)(ii).

(i) Transfer from being regulated under Subsection R315-319-103(f)(1) to being regulated under R315-319-103(f)(2). The owner or operator of a surface impoundment authorized to operate pursuant to Subsection R315-319-103(f)(1) may request authorization to instead operate the surface impoundment in accordance with the requirements of Subsection R315-319-103(f)(2), by submitting a new demonstration that meets the requirements of Subsection R315-319-103(f)(2)(v) to the director. The director may approve the request only upon determining that the criteria at Subsections R315-319-103(f)(2)(i) through R315-319-103(f)(2)(iv) have been met.

(ii) Transfer from Subsection R315-319-103(f)(2) to R315-319-103(f)(1). The owner or operator of a surface impoundment authorized to operate pursuant to Subsection R315-319-103(f)(2) may request authorization to instead operate the surface impoundment in accordance with the requirements of Subsection R315-319-103(f)(1), by submitting a new demonstration that meets the requirements of Subsection R315-319-103(f)(1)(iv) to the director. The director will approve the request only upon determining that the criteria in Subsections R315-319-103(f)(1)(i) through R315-319-103(f)(1)(iii) and R315-319-103(f)(1)(vi) have been met.

(iii) The procedures in Subsection R315-319-103(f)(3) will apply to each request for transfer under Subsection R315-319-103(f)(4).

#### **R315-319-104. Closure and Post-Closure Care - Post-Closure Care Requirements.**

**(a) Applicability.**

**(1)** Except as provided by either Subsection R315-319-104(a)(2) or R315-319-104(a)(3), Section R315-319-104 applies to the owners or operators of CCR landfills, CCR surface impoundments, and ~~and~~ lateral expansions of CCR units that are subject to the closure criteria under Section R315-319-102.

**(2)** An owner or operator of a CCR unit that elects to close a CCR unit by removing CCR as provided by Subsection R315-319-102(c) is not subject to the post-closure care criteria under Section R315-319-104.

~~**(3)** An owner or operator of an inactive CCR surface impoundment that elects to close a CCR unit pursuant to the requirements under Subsection R315-319-100(b) is not subject to the post-closure care criteria under Section R315-319-104.~~

**(b) Post-closure care maintenance requirements.** Following closure of the CCR unit, the owner or operator shall conduct post-closure care for the CCR unit, ~~which~~ that shall consist of at least ~~the following~~:

**(1)** ~~M~~maintaining the integrity and effectiveness of the final cover system, including making repairs to the final cover as necessary to correct the effects of settlement, subsidence, erosion, or other events, and preventing run-on and run-off from eroding or otherwise damaging the final cover;

**(2)** ~~I~~if the CCR unit is subject to the design criteria under Section R315-319-70, maintaining the integrity and effectiveness of the leachate collection and removal system and operating the leachate collection and removal system in accordance with the requirements of Section R315-319-70; and

**(3)** ~~M~~maintaining the groundwater monitoring system and monitoring the groundwater in accordance with the requirements of Sections R315-319-90 through R315-319-98.

**(c) Post-closure care period.**

**(1)** Except as provided by Subsection R315-319-104(c)(2), the owner or operator of the CCR unit shall conduct post-closure care for 30 years.

(2) If at the end of the post-closure care period the owner or operator of the CCR unit is operating under assessment monitoring in accordance with Section R315-319-95, the owner or operator shall continue to conduct post-closure care until the owner or operator returns to detection monitoring in accordance with Section R315-319-95.

(d) Written post-closure plan

(1) Content of the plan. The owner or operator of a CCR unit shall prepare a written post-closure plan and any amendments to the plan. The plan shall include, at a minimum, the information specified in Subsections R315-319-104(d)(1)(i) through R315-319-104(d)(1)(iii)[-];

(i) ~~[A]~~a description of the monitoring and maintenance activities required in Subsection R315-319-104(b) for the CCR unit, and the frequency at which these activities will be performed;

(ii) ~~[F]~~the name, address, telephone number, and email address of the person or office to contact about the facility during the post-closure care period; and

(iii) ~~[A]~~a description of the planned uses of the property during the post-closure period. Post-closure use of the property ~~[shall]~~may not disturb the integrity of the final cover, liner~~[-]~~, or any other component of the containment system, or the function of the monitoring systems unless necessary to comply with the requirements in Sections R315-319-50 through R315-319-107. Any other disturbance is allowed if the owner or operator of the CCR unit demonstrates that disturbance of the final cover, liner, or other component of the containment system, including any removal of CCR, will not increase the potential threat to human health or the environment. The demonstration shall be certified by a qualified professional engineer, and notification shall be provided to the ~~[D]~~director that the demonstration has been placed in the operating record and on the owners or operator's publicly accessible ~~[I]~~internet site.

(2) Deadline to prepare the initial written post-closure plan.

(i) Existing CCR landfills and existing CCR surface impoundments. No later than October 17, 2016, the owner or operator of the CCR unit shall prepare an initial written post-closure plan consistent with the requirements specified in Subsection R315-319-104(d)(1).

(ii) New CCR landfills, new CCR surface impoundments, and any lateral expansion of a CCR unit. No later than the date of the initial receipt of CCR in the CCR unit, the owner or operator shall prepare an initial written post-closure plan consistent with the requirements specified in Subsection R315-319-104(d)(1).

(iii) The owner or operator has completed the written post-closure plan when the plan, including the certification required by Subsection R315-319-104(d)(4), has been placed in the facility's operating record as required by Subsection R315-319-105(i)(4).

(3) Amendment of a written post-closure plan.

(i) The owner or operator may amend the initial or any subsequent written post-closure plan developed pursuant to Subsection R315-319-104(d)(1) at any time.

(ii) The owner or operator shall amend the written closure plan when~~[-]~~ever:

(A) ~~[F]~~there is a change in the operation of the CCR unit that would substantially affect the written post-closure plan in effect; or

(B) ~~[A]~~after post-closure activities have commenced, unanticipated events ~~[necessitate]~~require a revision of the written post-closure plan.

(iii) The owner or operator shall amend the written post-closure plan at least 60 days ~~[prior to]~~before a planned change in the operation of the facility or CCR unit, or no later than 60 days after an unanticipated event requires the need to revise an existing written post-closure plan. If a written post-closure plan is revised after post-closure activities have commenced for a CCR unit, the owner or operator shall amend the written post-closure plan no later than 30 days following the triggering event.

(4) The owner or operator of the CCR unit shall ~~[obtain]~~get a written certification from a qualified professional engineer that the initial and any amendment of the written post-closure plan meets the requirements of Section R315-319-104.

(e) Notification of completion of post-closure care period. No later than 60 days following the completion of the post-closure care period, the owner or operator of the CCR unit shall prepare a notification verifying that post-closure care has been completed. The notification shall include the certification by a qualified professional engineer verifying that post-closure care has been completed in accordance with the closure plan specified in Subsection R315-319-104(d) and the requirements of Section R315-319-104. The owner or operator has completed the notification when it has been placed in the facility's operating record as required by Subsection R315-319-105(i)(13).

(f) The owner or operator of the CCR unit shall comply with the recordkeeping requirements specified in Subsection R315-319-105(i), the notification requirements specified in Subsection R315-319-106(i), and the ~~[I]~~internet requirements specified in Subsection R315-319-107(i).

#### **R315-319-105. ~~[Recordkeeping, Notification, and Posting of Information to the Internet]~~Recordkeeping Requirements.**

(a) Each owner or operator of a CCR unit subject to the requirements of Sections R315-319-50 through R315-319-107 shall maintain files of ~~[all]~~the information required by Section R315-319-105 in a written operating record at their facility.

(b) Unless specified otherwise, each file shall be retained for at least five years following the date of each occurrence, measurement, maintenance, corrective action, report, record, or study.

(c) An owner or operator of more than one CCR unit subject to ~~[the provisions of]~~ Sections R315-319-50 through R315-319-107 may comply with the requirements of Section R315-319-105 in one recordkeeping system provided the system identifies each file by the name of each CCR unit. The files may be maintained on microfilm, on a computer, on computer disks, on a storage system accessible by a computer, on magnetic tape disks, or on microfiche.

(d) The owner or operator of a CCR unit shall submit to the ~~[D]~~director any demonstration or documentation required by Sections R315-319-50 through R315-319-107.

## NOTICES OF PROPOSED RULES

(e) Location restrictions. The owner or operator of a CCR unit subject to Sections R315-319-50 through R315-319-107 shall place the demonstrations documenting whether or not the CCR unit is in compliance with the requirements under Subsections R315-319-60(a), R315-319-61(a), R315-319-62(a), R315-319-63(a), and R315-319-64(a), as it becomes available, in the facility's operating record.

(f) Design criteria. The owner or operator of a CCR unit subject to Sections R315-319-50 through R315-319-107 shall place the[~~following~~] information required by Subsections R315-319-105(f)(1) through R315-319-105(i)(24), as it becomes available, in the facility's operating record:

- (1) ~~[F]~~the design and construction certifications as required by Subsections R315-319-70(e) and R315-319-70(f)[-];
- (2) ~~[F]~~the documentation of liner type as required by Subsection R315-319-71(a)[-];
- (3) ~~[F]~~the design and construction certifications as required by Subsections R315-319-72(c) and R315-319-72(d)[-];
- (4) ~~[D]~~documentation prepared by the owner or operator stating that the permanent identification marker was installed as required by Subsections R315-319-73(a)(1) and R315-319-74(a)(1)[-];
- (5) ~~[F]~~the initial and periodic hazard potential classification assessments as required by Subsections R315-319-73(a)(2) and R315-319-74(a)(2)[-];
- (6) ~~[F]~~the ~~[emergency action plan]~~ ~~[EAP]~~, and any amendment of the EAP, as required by Subsections R315-319-73(a)(3) and R315-319-74(a)(3), except that only the most recent EAP shall be maintained in the facility's operating record irrespective of the time requirement specified in Subsection R315-319-105(b)[-];
- (7) ~~[D]~~documentation prepared by the owner or operator recording the annual face-to-face meeting or exercise between representatives of the owner or operator of the CCR unit and the local emergency responders as required by Subsections R315-319-73(a)(3)(i)(E) and R315-319-74(a)(3)(i)(E)[-];
- (8) ~~[D]~~documentation prepared by the owner or operator recording ~~[all]~~each activation[s] of the ~~EAP~~[emergency action plan] as required by Subsections R315-319-73(a)(3)(v) and R315-319-74(a)(3)(v)[-];
- (9) ~~[F]~~the history of construction, and any revisions of it, as required by Subsection R315-319-73(c), except that these files shall be maintained until the CCR unit completes closure of the unit in accordance with Section R315-319-102[-];
- (10) ~~[F]~~the initial and periodic structural stability assessments as required by Subsections R315-319-73(d) and R315-319-74(d)[-];
- (11) ~~[D]~~documentation detailing the corrective measures taken to remedy the deficiency or release as required by Subsections R315-319-73(d)(2) and R315-319-74(d)(2)[-];
- (12) ~~[F]~~the initial and periodic safety factor assessments as required by Subsections R315-319-73(e) and 74(e)[-];
- (13) ~~[F]~~the design and construction plans, and any revisions of it, as required by Subsection R315-319-74(c), except that these files shall be maintained until the CCR unit completes closure of the unit in accordance with Section R315-319-102;
- (14) The application and any supplemental materials submitted in support of the application as required by Subsection R315-319-71(d)(1)(i)(E);
- (15) The alternative liner demonstration as required by Subsection R315-319-71(d)(1)(ii)(D);
- (16) The alternative liner demonstration extension request as required by Subsection R315-319-71(d)(2)(ii)(D);
- (17) The documentation prepared for the preliminary demonstration as required by Subsection R315-319-71(d)(2)(ii)(E);
- (18) The notification of an incomplete application as required by Subsection R315-319-71(d)(2)(iii)(B);
- (19) The decision on the application as required by Subsection R315-319-71(d)(2)(iii)(F);
- (20) The final decision on the alternative liner demonstration as required by Subsection R315-319-71(d)(2)(vii);
- (21) The alternative source demonstration as required under Subsection R315-319-71(d)(2)(ix)(A)(IV);
- (22) The final decision on the alternative source demonstration as required under Subsection R315-319-71(d)(2)(ix)(A)(V);
- (23) The final decision on the trend analysis as required under Subsection R315-319-71(d)(2)(ix)(B)(III); and
- (24) The decision that the alternative source demonstration has been withdrawn as required under Subsection R315-319-71(d)(2)(ix)(C).

(g) Operating criteria. The owner or operator of a CCR unit subject to Sections R315-319-50 through R315-319-107 shall, as it becomes available, place the[~~following~~] information required by Subsections R315-319-105(g)(1) through R315-319-105(g)(9) in the facility's operating record:

- (1) ~~[F]~~the CCR fugitive dust control plan, and any subsequent amendment of the plan, required by Subsection R315-319-80(b), except that only the most recent control plan shall be maintained in the facility's operating record irrespective of the time requirement specified in Subsection R315-319-105(b)[-];
  - (2) ~~[F]~~the annual CCR fugitive dust control report required by Subsection R315-319-80(c)[-];
  - (3) ~~[F]~~the initial and periodic run-on and run-off control system plans as required by Subsection R315-319-81(c)[-];
  - (4) ~~[F]~~the initial and periodic inflow design flood control system plan as required by Subsection R315-319-82(c)[-];
  - (5) ~~[D]~~documentation recording the results of each inspection and instrumentation monitoring by a qualified person as required by Subsection R315-319-83(a)[-];
  - (6) ~~[F]~~the periodic inspection report as required by Subsection R315-319-83(b)(2)[-];
  - (7) ~~[D]~~documentation detailing the corrective measures taken to remedy the deficiency or release as required by Subsections R315-319-83(b)(5) and R315-319-84(b)(5)[-];
  - (8) ~~[D]~~documentation recording the results of the weekly inspection by a qualified person as required by Subsection R315-319-84(a)[-]; and
  - (9) ~~[F]~~the periodic inspection report as required by Subsection R315-319-84(b)(2).
- (h) Groundwater monitoring and corrective action. The owner or operator of a CCR unit subject to Sections R315-319-50 through R315-319-107 shall, as it becomes available, place the[~~following~~] information required by Subsections R315-319-105(h)(1) through R315-319-105(h)(14) in the facility's operating record:

- (1) ~~the~~ the annual groundwater monitoring and corrective action report as required by Subsection R315-319-90(e);
- (2) ~~the~~ documentation of the design, installation, development, and decommissioning of any monitoring wells, piezometers and other measurement, sampling, and analytical devices as required by Subsection R315-319-91(e)(1);
- (3) ~~the~~ the groundwater monitoring system certification as required by Subsection R315-319-91(f);
- (4) ~~the~~ the selection of a statistical method certification as required by Subsection R315-319-93(f)(6);
- (5) ~~within~~ within 30 days of establishing an assessment monitoring program, the notification as required by Subsection R315-319-94(e)(3);
- (6) ~~the~~ the results of ~~the~~ Appendices III and IV to Rule R315-319 constituent concentrations as required by Subsection R315-319-95(d)(1);
- (7) ~~within~~ within 30 days of returning to a detection monitoring program, the notification as required by Subsection R315-319-95(e);
- (8) ~~within~~ within 30 days of detecting one or more constituents in ~~the~~ Appendix IV to Rule R315-319 at statistically significant levels above the groundwater protection standard, the notifications as required by Subsection R315-319-95(g);
- (9) ~~within~~ within 30 days of initiating the assessment of corrective measures requirements, the notification as required by Subsection R315-319-95(g)(5);
- (10) ~~the~~ the completed assessment of corrective measures as required by Subsection R315-319-96(d);
- (11) ~~the~~ documentation prepared by the owner or operator recording the public meeting for the corrective measures assessment as required by Subsection R315-319-96(e);
- (12) ~~the~~ the semiannual report describing the progress in selecting and designing the remedy and the selection of remedy report as required by Subsection R315-319-97(a), except that the selection of remedy report shall be maintained until the remedy has been completed;
- (13) ~~within~~ within 30 days of completing the remedy, the notification as required by Subsection R315-319-98(e); and
- (14) the demonstration, including long-term performance data, supporting the suspension of groundwater monitoring requirements as required by Subsection R315-319-90(g).
- (i) Closure and post-closure care. The owner or operator of a CCR unit subject to Sections R315-319-50 through R315-319-107 shall, as it becomes available, place the ~~following~~ information required by Subsections R315-319-105(i)(1) through R315-319-105(i)(20) in the facility's operating record:
  - (1) ~~the~~ the notification of intent to initiate closure of the CCR unit as required by Subsection R315-319-100(c)(1);
  - (2) ~~the~~ the annual progress reports of closure implementation as required by Subsections R315-319-100(c)(2)(i) and R315-319-100(c)(2)(ii);
  - (3) ~~the~~ the notification of closure completion as required by Subsection R315-319-100(c)(3);
  - (4) ~~the~~ the written closure plan, and any amendment of the plan, as required by Subsection R315-319-102(b), except that only the most recent closure plan shall be maintained in the facility's operating record irrespective of the time requirement specified in Subsection R315-319-105(b);
  - (5) ~~the~~ the written demonstration~~the~~, including the certification required by Subsection R315-319-102(e)(2)(iii), for a time extension for initiating closure as required by Subsection R315-319-102(e)(2)(ii);
  - (6) ~~the~~ the written demonstration~~the~~, including the certification required by Subsection R315-319-102(f)(2)(iii), for a time extension for completing closure as required by Subsection R315-319-102(f)(2)(i);
  - (7) ~~the~~ the notification of intent to close a CCR unit as required by Subsection R315-319-102(g);
  - (8) ~~the~~ the notification of completion of closure of a CCR unit as required by Subsection R315-319-102(h);
  - (9) ~~the~~ the notification recording a notation on the deed as required by Subsection R315-319-102(i);
  - (10) ~~the~~ the notification of intent to comply with the alternative closure requirements as required by Subsection R315-319-103(c)(1);
  - (11) ~~the~~ the annual progress reports under the alternative closure requirements as required by Subsection R315-319-103(c)(2);
  - (12) ~~the~~ the written post-closure plan, and any amendment of the plan, as required by Subsection R315-319-104(d), except that only the most recent closure plan shall be maintained in the facility's operating record irrespective of the time requirement specified in Subsection R315-319-105(b);
  - (13) ~~the~~ the notification of completion of post-closure care period as required by Subsection R315-319-104(e);
  - (14) the notification of intent to comply with the site-specific alternative to initiation of closure due to development of alternative capacity infeasible as required by Subsection R315-319-103(f)(1)(ix)(A);
  - (15) the approved or denied demonstration for the site-specific alternative to initiation of closure due to development of alternative capacity infeasible as required by Subsection R315-319-103(f)(1)(ix)(B);
  - (16) the notification for requesting additional time to the alternative stop receipt of waste deadline as required by Subsection R315-319-103(f)(1)(ix)(C);
  - (17) the semiannual progress reports for the site-specific alternative to initiation of closure due to development of alternative capacity infeasible as required by Subsection R315-319-103(f)(1)(ix);
  - (18) the notification of intent to comply with the site-specific alternative to initiation of closure due to permanent cessation of a coal-fired boilers by a date certain as required by Subsection R315-319-103(f)(2)(viii);
  - (19) the approved or denied demonstration for the site-specific alternative to initiation of closure due to permanent cessation of a coal-fired boilers by a date certain as required by Subsection R315-319-103(f)(2)(ix); and
  - (20) the annual progress report for the site-specific alternative to initiation of closure due to permanent cessation of a coal-fired boilers by a date certain as required by Subsection R315-319-103(f)(2)(x).

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(j) Retrofit criteria. The owner or operator of a CCR unit subject to Sections R315-319-50 through R315-319-107 shall, as it becomes available, place ~~the following~~ this information in the facility's operating record:

(1) ~~the~~ the written retrofit plan, and any amendment of the plan, as required by Subsection R315-319-102(k)(2), except that only the most recent retrofit plan shall be maintained in the facility's operating record irrespective of the time requirement specified in Subsection R315-319-105~~[-](b)[-]~~;

(2) ~~the~~ the notification of intent that the retrofit activities will proceed in accordance with the alternative procedures in ~~S[ubs]ection~~ R315-319-103;

(3) ~~the~~ the annual progress reports required under the alternative requirements as required by ~~S[ubs]ection~~ R315-319-103;

(4) ~~the~~ the written demonstration~~[f](3)~~, including the certification in Subsection R315-319-102(f)(2)(iii), for a time extension for completing retrofit activities as required by Subsection R315-319-102(k)(3);

(5) ~~the~~ the notification of intent to initiate retrofit of a CCR unit as required by Subsection R315-319-102(k)(5); and

(6) ~~the~~ the notification of completion of retrofit activities as required by Subsection R315-319-102(k)(6).

### **R315-319-106. ~~[Recordkeeping, Notification, and Posting of Information to the Internet]~~Notification Requirements.**

(a) The notifications required under Subsections R315-319-106(e) through R315-319-106(i) shall be sent to the director before the close of business on the day the notification is required to be completed. For Section R315-319-106, before the close of business means the notification shall be postmarked or sent by electronic mail (email). If a notification deadline falls on a weekend or federal holiday, the notification deadline is automatically extended to the next business day.

(b) Reserved.

(c) Notifications may be combined as long as the deadline requirement for each notification is met.

(d) Unless otherwise required in Section R315-319-106, the notifications specified in Section R315-319-106 shall be sent to the director within 30 days of placing in the operating record the information required by Section R315-319-105.

(e) Location restrictions. The owner or operator of a CCR unit subject to the requirements of Sections R315-319-50 through R315-319-107 shall notify the director that each demonstration specified under Subsection R315-319-105(e) has been placed in the operating record and on the owner or operator's publicly accessible internet site.

(f) Design criteria. The owner or operator of a CCR unit subject to Sections R315-319-50 through R315-319-107 shall notify the director when information has been placed in the operating record and on the owner or operator's publicly accessible ~~[I]~~ internet site. The owner or operator shall:

(1) within 60 days of commencing construction of a new CCR unit, provide notification of the availability of the design certification specified under Subsection R315-319-105(f)(1) or R315-319-105(f)(3). If the owner or operator of the CCR unit elects to install an alternative composite liner, the owner or operator shall also submit to the director a copy of the alternative composite liner design;

(2) no later than the date of initial receipt of CCR by a new CCR unit, provide notification of the availability of the construction certification specified under Subsection R315-319-105(f)(1) or R315-319-105(f)(3);

(3) provide notification of the availability of the documentation of liner type specified under Subsection R315-319-105(f)(2);

(4) provide notification of the availability of the initial and periodic hazard potential classification assessments specified under Subsection R315-319-105(f)(5);

(5) provide notification of the availability of ~~the [emergency action plan (EAP)]~~, and any revisions of the EAP, specified under Subsection R315-319-105(f)(6);

(6) provide notification of the availability of documentation prepared by the owner or operator recording the annual face-to-face meeting or exercise between representatives of the owner or operator of the CCR unit and the local emergency responders specified under Subsection R315-319-105(f)(7);

(7) provide notification of documentation prepared by the owner or operator recording any activations of the ~~[emergency action plan]~~ EAP specified under Subsection R315-319-105(f)(8);

(8) provide notification of the availability of the history of construction, and any revision of it, specified under Subsection R315-319-105(f)(9);

(9) provide notification of the availability of the initial and periodic structural stability assessments specified under Subsection R315-319-105(f)(10);

(10) provide notification of the availability of the documentation detailing the corrective measures taken to remedy the deficiency or release specified under Subsection R315-319-105(f)(11);

(11) provide notification of the availability of the initial and periodic safety factor assessments specified under Subsection R315-319-105(f)(12); ~~and~~

(12) provide notification of the availability of the design and construction plans, and any revision of them, specified under Subsection R315-319-105(f)(13);

(13) provide notification of the availability of the application and any supplemental materials submitted in support of the application specified under Subsection R315-319-105(f)(14);

(14) provide notification of the availability of the alternative liner demonstration specified under Subsection R315-319-105(f)(15);

(15) provide notification of the availability of the alternative liner demonstration extension request specified under Subsection R315-319-105(f)(16);

(16) provide notification of the availability of the documentation prepared for the preliminary demonstration specified under Subsection R315-319-105(f)(17);

(17) provide notification of the availability of the notification of an incomplete application specified under Subsection R315-319-105(f)(18);



- (18) provide notification of the availability of the decision on the application specified under Subsection R315-319-105(f)(19);  
(19) provide notification of the availability of the final decision on the alternative liner demonstration specified under Subsection R315-319-105(f)(20);  
(20) provide notification of the availability of the alternative source demonstration specified under Subsection R315-319-105(f)(21);  
(21) provide notification of the availability of the final decision on the alternative source demonstration specified under Subsection R315-319-105(f)(22);  
(22) provide notification of the final decision on the trend analysis specified under Subsection R315-319-105(f)(23); and  
(23) provide notification of the decision that the alternative source demonstration has been withdrawn specified under Subsection R315-319-105(f)(24).
- (g) Operating criteria. The owner or operator of a CCR unit subject to Sections R315-319-50 through R315-319-107 shall notify the director when information has been placed in the operating record and on the owner or operator's publicly accessible [H]internet site. The owner or operator shall:
- (1) provide notification of the availability of the CCR fugitive dust control plan, or any subsequent amendment of the plan, specified under Subsection R315-319-105(g)(1);
  - (2) provide notification of the availability of the annual CCR fugitive dust control report specified under Subsection R315-319-105(g)(2);
  - (3) provide notification of the availability of the initial and periodic run-on and run-off control system plans specified under Subsection R315-319-105(g)(3);
  - (4) provide notification of the availability of the initial and periodic inflow design flood control system plans specified under Subsection R315-319-105(g)(4);
  - (5) provide notification of the availability of the periodic inspection reports specified under Subsection R315-319-105(g)(6);
  - (6) provide notification of the availability of the documentation detailing the corrective measures taken to remedy the deficiency or release specified under Subsection R315-319-105(g)(7); and
  - (7) provide notification of the availability of the periodic inspection reports specified under Subsection R315-319-105(g)(9).
- (h) Groundwater monitoring and corrective action. The owner or operator of a CCR unit subject to Sections R315-319-50 through R315-319-107 shall notify the director when information has been placed in the operating record and on the owner or operator's publicly accessible [H]internet site. The owner or operator shall:
- (1) provide notification of the availability of the annual groundwater monitoring and corrective action report specified under Subsection R315-319-105(h)(1);
  - (2) provide notification of the availability of the groundwater monitoring system certification specified under Subsection R315-319-105(h)(3);
  - (3) provide notification of the availability of the selection of a statistical method certification specified under Subsection R315-319-105(h)(4);
  - (4) provide notification that an assessment monitoring programs has been established specified under Subsection R315-319-105(h)(5);
  - (5) provide notification that the CCR unit is returning to a detection monitoring program specified under Subsection R315-319-105(h)(7);
  - (6) provide notification that one or more constituents in [a]Appendix IV to Rule R315-319 have been detected at statistically significant levels above the groundwater protection standard and the notifications to land owners specified under Subsection R315-319-105(h)(8);
  - (7) provide notification that an assessment of corrective measures has been initiated specified under Subsection R315-319-105(h)(9);
  - (8) provide notification of the availability of assessment of corrective measures specified under Subsection R315-319-105(h)(10);
  - (9) provide notification of the availability of the semiannual report describing the progress in selecting and designing the remedy and the selection of remedy report specified under Subsection R315-319-105(h)(12);~~and~~
  - (10) provide notification of the completion of the remedy specified under Subsection R315-319-105(h)(13)~~;~~; and
  - (11) provide the demonstration supporting the suspension of groundwater monitoring requirements specified under Subsection R315-319-105(h)(14).
- (i) Closure and post-closure care. The owner or operator of a CCR unit subject to Sections R315-319-50 through R315-319-107 shall notify the director when information has been placed in the operating record and on the owner or operator's publicly accessible [H]internet site. The owner or operator shall:
- (1) provide notification of the intent to initiate closure of the CCR unit specified under Subsection R315-319-105(i)(1);
  - (2) provide notification of the availability of the annual progress reports of closure implementation specified under Subsection R315-319-105(i)(2);
  - (3) provide notification of closure completion specified under Subsection R315-319-105(i)(3);
  - (4) provide notification of the availability of the written closure plan, and any amendment of the plan, specified under Subsection R315-319-105(i)(4);
  - (5) provide notification of the availability of the demonstration for a time extension for initiating closure specified under Subsection R315-319-105(i)(5);
  - (6) provide notification of the availability of the demonstration for a time extension for completing closure specified under Subsection R315-319-105(i)(6);

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- (7) provide notification of intent to close a CCR unit specified under Subsection R315-319-105(i)(7);
- (8) provide notification of completion of closure of a CCR unit specified under Subsection R315-319-105(i)(8);
- (9) provide notification of the deed notation as required by Subsection R315-319-105(i)(9);
- (10) provide notification of intent to comply with the alternative closure requirements specified under Subsection R315-319-105(i)(10);
- (11) the annual progress reports under the alternative closure requirements as required by Subsection R315-319-105(i)(11);
- (12) provide notification of the availability of the written post-closure plan, and any amendment of the plan, specified under Subsection R315-319-105(i)(12);~~and~~
- (13) provide notification of completion of post-closure care specified under Subsection R315-319-105(i)(13);~~;~~
- (14) provide the notification of intent to comply with the site-specific alternative to initiation of closure due to development of alternative capacity infeasible as specified under Subsection R315-319-105(i)(14);
- (15) provide the approved or denied demonstration for the site-specific alternative to initiation of closure due to development of alternative capacity infeasible as required by as specified under Subsection R315-319-105(i)(15);
- (16) provide the notification for requesting additional time to the alternative stop receipt of waste deadline as required by Subsection R315-319-105(i)(16);
- (17) the semiannual progress reports for the site-specific alternative to initiation of closure due to development of alternative capacity infeasible as specified under Subsection R315-319-105(i)(17);
- (18) provide the notification of intent to comply with the site-specific alternative to initiation of closure due to permanent cessation of a coal-fired boilers by a date certain as specified under Subsection R315-319-105(i)(18);
- (19) provide the approved or denied demonstration for the site-specific alternative to initiation of closure due to permanent cessation of a coal-fired boilers by a date certain as required by Subsection R315-319-105(i)(19); and
- (20) the annual progress report for the site-specific alternative to initiation of closure due to permanent cessation of a coal-fired boilers by a date certain as required by Subsection R315-319-105(i)(20).
- (j) Retrofit criteria. The owner or operator of a CCR unit subject to Sections R315-319-50 through R315-319-107 shall notify the director when information has been placed in the operating record and on the owner or operator's publicly accessible [H]internet site. The owner or operator shall:
  - (1) provide notification of the availability of the written retrofit plan, and any amendment of the plan, specified under Subsection R315-319-105(j)(1);
  - (2) provide notification of intent to comply with the alternative retrofit requirements specified under Subsection R315-319-105(j)(2);
  - (3) the annual progress reports under the alternative retrofit requirements as required by Subsection R315-319-105(j)(3);
  - (4) provide notification of the availability of the demonstration for a time extension for completing retrofit activities specified under Subsection R315-319-105(j)(4);
  - (5) provide notification of intent to initiate retrofit of a CCR unit specified under Subsection R315-319-105(j)(5);and
  - (6) provide notification of completion of retrofit activities specified under Subsection R315-319-105(j)(6).

### **R315-319-107. ~~[Recordkeeping, Notification, and Posting of Information to the Internet—]~~Publicly Accessible Internet Site Requirements.**

- (a) Each owner or operator of a CCR unit subject to the requirements of Sections R315-319-50 through R315-319-107 shall maintain a publicly accessible [H]internet site, CCR [W]web site, containing the information specified in Section R315-319-107. The owner or operator's [W]web site shall be titled "CCR Rule Compliance Data and Information." The website shall ensure that the information required to be posted is immediately available to anyone visiting the site, without requiring any prerequisite, such as registration or a requirement to submit a document request. The required information shall be clearly identifiable and shall be able to be immediately printed and downloaded by anyone accessing the site. If the owner or operator changes the web address, that is the Uniform Resource Locator (URL) at any point, they shall notify the director within 14 days of making the change. The facility's CCR website shall also have a "contact us" form or a specific email address posted on the website for the public to use to submit questions and issues relating to the availability of information on the website.
- (b) An owner or operator of more than one CCR unit subject to ~~[the provisions of]~~Sections R315-319-50 through R315-319-107 may comply with the requirements of Section R315-319-107 by using the same [H]internet site for multiple CCR units provided the CCR [W]web site clearly delineates information by the name or identification number of each unit.
- (c) Unless otherwise required in Section R315-319-107, the information required to be posted to the CCR [W]web site shall be made available to the public for at least five years following the date on which the information was first posted to the CCR [W]web site.
- (d) Unless otherwise required in Section R315-319-107, the information shall be posted to the CCR [W]web site within 30 days of placing the pertinent information required by ~~S[ub]s~~ection R315-319-105 in the operating record.
- (e) Location restrictions. The owner or operator of a CCR unit subject to Sections R315-319-50 through R315-319-107 shall place each demonstration specified under Subsection R315-319-105(e) on the owner or operator's CCR [W]web site.
- (f) Design criteria. The owner or operator of a CCR unit subject to Sections R315-319-50 through R315-319-107 shall place the[~~following~~] information required by Subsections R315-319-107(f)(1) through R315-319-107(f)(23) on the owner or operator's CCR [W]web site:
  - (1) [W]within 60 days of commencing construction of a new unit, the design certification specified under Subsection R315-319-105(f)(1) or R315-319-105(f)(3);

(2) ~~[N]~~no later than the date of initial receipt of CCR by a new CCR unit, the construction certification specified under Subsection R315-319-105(f)(1) or R315-319-105(f)(3)[-];

(3) ~~[F]~~the documentation of liner type specified under Subsection R315-319-105(f)(2)[-];

(4) ~~[F]~~the initial and periodic hazard potential classification assessments specified under Subsection R315-319-105(f)(5)[-];

(5) ~~[F]~~the ~~[emergency action plan (EAP)]~~ specified under Subsection R315-319-105(f)(6), except that only the most recent EAP shall be maintained on the CCR ~~[W]~~web site irrespective of the time requirement specified in Subsection R315-319-107(c) [-];

(6) ~~[D]~~documentation prepared by the owner or operator recording the annual face-to-face meeting or exercise between representatives of the owner or operator of the CCR unit and the local emergency responders specified under Subsection R315-319-105(f)(7) [-];

(7) ~~[D]~~documentation prepared by the owner or operator recording any activation of the ~~EAP~~[emergency action plan] specified under Subsection R315-319-105(f)(8) [-];

(8) ~~[F]~~the history of construction, and any revisions of it, specified under Subsection R315-319-105(f)(9) [-];

(9) ~~[F]~~the initial and periodic structural stability assessments specified under Subsection R315-319-105(f)(10) [-];

(10) ~~[F]~~the documentation detailing the corrective measures taken to remedy the deficiency or release specified under Subsection R315-319-105(f)(11) [-];

(11) ~~[F]~~the initial and periodic safety factor assessments specified under Subsection R315-319-105(f)(12) [-];

(12) ~~[F]~~the design and construction plans, and any revisions of them, specified under Subsection R315-319-105(f)(13) [-];

(13) ~~the application and any supplemental materials submitted in support of the application specified under Subsection R315-319-105(f)(14);~~

~~(14) the alternative liner demonstration specified under Subsection R315-319-105(f)(15);~~

~~(15) the alternative liner demonstration specified under Subsection R315-319-105(f)(16);~~

~~(16) the documentation prepared for the preliminary demonstration specified under Subsection R315-319-105(f)(17);~~

~~(17) the notification of an incomplete application specified under Subsection R315-319-105(f)(18);~~

~~(18) the decision on the application specified under Subsection R315-319-105(f)(19);~~

~~(19) the final decision on the alternative liner demonstration specified under Subsection R315-319-105(f)(20);~~

~~(20) the alternative source demonstration specified under Subsection R315-319-105(f)(21);~~

~~(21) the final decision on the alternative source demonstration specified under Subsection R315-319-105(f)(22);~~

~~(22) the final decision on the trend analysis specified under Subsection R315-319-105(f)(23); and~~

~~(23) the decision that the alternative source demonstration has been withdrawn specified under Subsection R315-319-105(f)(24).~~

(g) Operating criteria. The owner or operator of a CCR unit subject to Sections R315-319-50 through R315-319-107 shall place the ~~[following]~~ information required by Subsections R315-319-107(g)(1) through R315-319-107(g)(7) on the owner or operator's CCR ~~[W]~~web site:

(1) ~~[F]~~the CCR fugitive dust control plan, or any subsequent amendment of the plan, specified under Subsection R315-319-105(g)(1) except that only the most recent plan shall be maintained on the CCR ~~[W]~~web site irrespective of the time requirement specified in Subsection R315-319-107(c) [-];

(2) ~~[F]~~the annual CCR fugitive dust control report specified under Subsection R315-319-105(g)(2) [-];

(3) ~~[F]~~the initial and periodic run-on and run-off control system plans specified under Subsection R315-319-105(g)(3) [-];

(4) ~~[F]~~the initial and periodic inflow design flood control system plans specified under Subsection R315-319-105(g)(4) [-];

(5) ~~[F]~~the periodic inspection reports specified under Subsection R315-319-105(g)(6) [-];

(6) ~~[F]~~the documentation detailing the corrective measures taken to remedy the deficiency or release specified under Subsection R315-319-105(g)(7) [-]; and

(7) ~~[F]~~the periodic inspection reports specified under Subsection R315-319-105(g)(9).

(h) Groundwater monitoring and corrective action. The owner or operator of a CCR unit subject to Sections R315-319-50 through R315-319-107 shall place the ~~[following]~~ information required by Subsections R315-319-107(h)(1) through R315-319-107(h)(11) on the owner or operator's CCR ~~[W]~~web site:

(1) ~~[F]~~the annual groundwater monitoring and corrective action report specified under Subsection R315-319-105(h)(1) [-];

(2) ~~[F]~~the groundwater monitoring system certification specified under Subsection R315-319-105(h)(3) [-];

(3) ~~[F]~~the selection of a statistical method certification specified under Subsection R315-319-105(h)(4) [-];

(4) ~~[F]~~the notification that an assessment monitoring programs has been established specified under Subsection R315-319-105(h)(5) [-];

(5) ~~[F]~~the notification that the CCR unit is returning to a detection monitoring program specified under Subsection R315-319-105(h)(7) [-];

(6) ~~[F]~~the notification that one or more constituents in appendix IV to Rule R315-319 have been detected at statistically significant levels above the groundwater protection standard and the notifications to land owners specified under Subsection R315-319-105(h)(8) [-];

(7) ~~[F]~~the notification that an assessment of corrective measures has been initiated specified under Subsection R315-319-105(h)(9) [-];

(8) ~~[F]~~the assessment of corrective measures specified under Subsection R315-319-105(h)(10) [-];

(9) ~~[F]~~the semiannual reports describing the progress in selecting and designing remedy and the selection of remedy report specified under Subsection R315-319-105(h)(12), except that the selection of the remedy report shall be maintained until the remedy has been completed [-];

(10) ~~[F]~~the notification that the remedy has been completed specified under Subsection R315-319-105(h)(13) [-]; and

(11) the demonstration supporting the suspension of groundwater monitoring requirements specified under Subsection R315-319-105(h)(14).

(i) Closure and post-closure care. The owner or operator of a CCR unit subject to Sections R315-319-50 through R315-319-107 shall place the ~~following~~ information required by Subsections R315-319-107(i)(1) through R315-319-107(i)(2) on the owner or operator's CCR ~~W~~web site:

- (1) ~~the~~ notification of intent to initiate closure of the CCR unit specified under Subsection R315-319-105(i)(1)~~[-];~~
- (2) ~~the~~ annual progress reports of closure implementation specified under Subsection R315-319-105(i)(2)~~[-];~~
- (3) ~~the~~ notification of closure completion specified under Subsection R315-319-105(i)(3)~~[-];~~
- (4) ~~the~~ written closure plan, and any amendment of the plan, specified under Subsection R315-319-105(i)(4)~~[-];~~
- (5) ~~the~~ demonstration~~[-]~~ for a time extension for initiating closure specified under Subsection R315-319-105(i)(5)~~[-];~~
- (6) ~~the~~ demonstration~~[-]~~ for a time extension for completing closure specified under Subsection R315-319-105(i)(6)~~[-];~~
- (7) ~~the~~ notification of intent to close a CCR unit specified under Subsection R315-319-105(i)(7)~~[-];~~
- (8) ~~the~~ notification of completion of closure of a CCR unit specified under Subsection R315-319-105(i)(8)~~[-];~~
- (9) ~~the~~ notification recording a notation on the deed as required by Subsection R315-319-105(i)(9)~~[-];~~
- (10) ~~the~~ notification of intent to comply with the alternative closure requirements as required by Subsection R315-319-

105(i)(10)~~[-];~~

- (11) ~~the~~ annual progress reports under the alternative closure requirements as required by Subsection R315-319-105(i)(11)~~[-];~~
- (12) ~~the~~ written post-closure plan, and any amendment of the plan, specified under Subsection R315-319-105(i)(12)~~[-];~~
- (13) ~~the~~ notification of completion of post-closure care specified under Subsection R315-319-105(i)(13)~~[-];~~
- (14) the notification of intent to comply with the site-specific alternative to initiation of closure due to development of alternative

capacity infeasible as specified under Subsection R315-319-105(i)(14);

(15) the approved or denied demonstration for the site-specific alternative to initiation of closure due to development of alternative capacity infeasible as required by as specified under Subsection R315-319-105(i)(15);

(16) the notification for requesting additional time to the alternative stop receipt of waste deadline as required by Subsection R315-319-105(i)(16);

(17) the semiannual progress reports for the site-specific alternative to initiation of closure due to development of alternative capacity infeasible as specified under Subsection R315-319-105(i)(17);

(18) the notification of intent to comply with the site-specific alternative to initiation of closure due to permanent cessation of a coal-fired boilers by a date certain as specified under Subsection R315-319-105(i)(18);

(19) the approved or denied demonstration for the site-specific alternative to initiation of closure due to permanent cessation of a coal-fired boilers by a date certain as required by Subsection R315-319-105(i)(19); and

(20) the annual progress report for the site-specific alternative to initiation of closure due to permanent cessation of a coal-fired boilers by a date certain as required by Subsection R315-319-105(i)(20).

(j) Retrofit criteria. The owner or operator of a CCR unit subject to Sections R315-319-50 through R315-319-107 shall place the ~~following~~ information required by Subsections R315-319-107(j)(1) through R315-319-107(j)(6) on the owner or operator's CCR ~~W~~web site:

- (1) ~~the~~ written retrofit plan, and any amendment of the plan, specified under Subsection R315-319-105(j)(1)~~[-];~~
- (2) ~~the~~ notification of intent to comply with the alternative retrofit requirements as required by Subsection R315-319-

105(j)(2)~~[-];~~

- (3) ~~the~~ annual progress reports under the alternative retrofit requirements as required by Subsection R315-319-105(j)(3)~~[-];~~
- (4) ~~the~~ demonstration~~[-]~~ for a time extension for completing retrofit activities specified under Subsection R315-319-

105(j)(4)~~[-];~~

- (5) ~~the~~ notification of intent to retrofit a CCR unit specified under Subsection R315-319-105(j)(5)~~[-]; and~~
- (6) ~~the~~ notification of completion of retrofit activities specified under Subsection R315-319-105(j)(6).

#### **R315-319-108. Appendix III to Rule R315-319 - Constituents for Detection Monitoring.**

<u>Table 1</u>
<u>Common Name<sup>1</sup></u>
<u>Boron</u>
<u>Calcium</u>
<u>Chloride</u>
<u>Fluoride</u>
<u>pH</u>
<u>Sulfate</u>
<u>Total Dissolved Solids (TDS)</u>
<sup>1</sup> <u>Common names are those widely used in government rules and regulations, scientific publications, and commerce; synonyms exist for many chemicals.</u>

[Table]

<u>Common name(1)</u>
Boron
Calcium
Chloride
Fluoride
pH
Sulfate
Total Dissolved Solids (TDS)

(1) Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

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### R315-319-109. Appendix IV to Rule R315-319 - Constituents for Assessment Monitoring.

<u>Table 2</u>
<u>Common Name<sup>1</sup></u>
<u>Antimony</u>
<u>Arsenic</u>
<u>Barium</u>
<u>Beryllium</u>
<u>Cadmium</u>
<u>Chromium</u>
<u>Cobalt</u>
<u>Fluoride</u>
<u>Lead</u>
<u>Lithium</u>
<u>Mercury</u>
<u>Molybdenum</u>
<u>Selenium</u>
<u>Thallium</u>
<u>Radium 226 and 228 combined</u>
<sup>1</sup> Common names are those widely used in government rules and regulations, scientific publications, and commerce; synonyms exist for many chemicals.

[Table]

<u>Common name(1)</u>
Antimony
Arsenic
Barium
Beryllium
Cadmium
Chromium
Cobalt
Fluoride
Lead
Lithium
Mercury
Molybdenum
Selenium
Thallium
Radium 226 and 228 combined

(1) Common names are those widely used in government regulations, scientific publications, and commerce; synonyms exist for many chemicals.

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**KEY:** permit, solid waste, coal ash

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**Notice of Continuation:** July 8, 2021

**Authorizing, and Implemented or Interpreted Law:** 19-6-108

**NOTICE OF SUBSTANTIVE CHANGE****TYPE OF FILING:** Amendment**Rule or section number:****R722-360****Filing ID: 57323****Agency Information**

<b>1. Title catchline:</b>	Public Safety, Criminal Investigations and Technical Services, Criminal Identification	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S. 2700 W.	
<b>City, state:</b>	Taylorsville, UT 84129	
<b>Mailing address:</b>	4315 S. 2700 W., Suite 1300	
<b>City, state and zip:</b>	Taylorsville, UT 84129	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Kim Gibb	801-556-8198	kgibb@utah.gov
Nicole Borgeson	801-281-5072	nshepherd@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

**General Information**

<b>2. Rule or section catchline:</b>	
R722-360. Certificate of Eligibility for Removal from the Sex Offender and Kidnap Offender Registry	
<b>3. Are any changes in this filing because of state legislative action?</b>	Changes are because of legislative action.
<b>If yes, any bill number and session:</b>	SB 41 (2025 General Session)
<b>4. Purpose of the new rule or reason for the change:</b>	
The purpose of this change is to update statutory references that were changed upon passage of SB 41, 2025 General Session. In addition, time frames are clarified for a petitioner to submit additional information requested by Bureau of Criminal Identification (BCI), and payment of applicable fees.	
<b>5. Summary of the new rule or change:</b>	
This filing updates statutory references that were changed upon passage of SB 41, 2025 General Session, and clarifies timeframes for a petitioner to submit additional information requested by BCI and payment of applicable fees.	

**Fiscal Information**

<b>6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A. State budget:</b>
The proposed rule is not expected to have any fiscal impact on the state budget because the amendment only updates statutory references changed upon passage of SB 41, 2025 General Session, and clarifies time frames for a petitioner to submit additional information requested by BCI and pay applicable fees.
<b>B. Local governments:</b>
The proposed rule is not expected to have any fiscal impact on local governments because the amendment only updates statutory references changed upon passage of SB 41, 2025 General Session, and clarifies time frames for a petitioner to submit additional information requested by BCI and pay applicable fees.
<b>C. Small businesses ("small business" means a business employing 1-49 persons):</b>
The proposed rule is not expected to have any fiscal impact on small businesses because the amendment only updates statutory references changed upon passage of SB 41, 2025 General Session, and clarifies time frames for a petitioner to submit additional information requested by BCI and pay applicable fees.

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

The proposed rule is not expected to have any fiscal impact on non-small businesses because the amendment only updates statutory references changed upon passage of SB 41, 2025 General Session, and clarifies time frames for a petitioner to submit additional information requested by BCI and pay applicable fees.

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

The proposed rule is not expected to have any fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities because the amendment only updates statutory references changed upon passage of SB 41, 2025 General Session, and clarifies time frames for a petitioner to submit additional information requested by BCI and pay applicable fees.

**F. Compliance costs for affected persons:**

The proposed rule is not expected to result in any compliance costs for affected persons because the amendment only updates statutory references changed upon passage of SB 41, 2025 General Session, and clarifies time frames for a petitioner to submit additional information requested by BCI and pay applicable fees.

**G. Regulatory Impact Summary Table** (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)**Regulatory Impact Summary Table**

<b>Fiscal Cost</b>	<b>FY2026</b>	<b>FY2027</b>	<b>FY2028</b>	<b>FY2029</b>	<b>FY2030</b>
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2026</b>	<b>FY2027</b>	<b>FY2028</b>	<b>FY2029</b>	<b>FY2030</b>
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Commissioner of the Department of Public Safety, Jess L. Anderson, has reviewed and approved this regulatory impact analysis.

**Citation Information****7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Subsection 63G-4-203(1)	Section 53-29-202	Section 53-29-204
Section 53-29-205	Section 53-29-206	Section 53-29-207

**Public Notice Information****9. The public may submit written or oral comments to the agency identified in box 1.**

**A. Comments will be accepted until:** 09/02/2025

<b>10. This rule change MAY become effective on:</b>	09/09/2025
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

#### Agency Authorization Information

<b>Agency head or designee and title:</b>	Jason Ricks, BCI Division Director	<b>Date:</b>	07/07/2025
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### **R722. Public Safety, Criminal Investigations and Technical Services, Criminal Identification.**

#### **R722-360. Certificate of Eligibility for Removal from the Sex, ~~Offender and~~ Kidnap, and Child Abuse Offender Registry.**

##### **R722-360-1. Purpose.**

The purpose of this rule is to establish procedures by which a petitioner may seek a certificate of eligibility for removal from the Utah Sex, ~~Offender and~~ Kidnap, and Child Abuse Offender Registry (SOR) pursuant to Section ~~[77-41-112]~~53-29-207.

##### **R722-360-2. Authority.**

This rule is authorized by Subsection 63G-4-203(1).

##### **R722-360-3. Definitions.**

- (1) Terms used in this rule are defined in Sections ~~[77-41-102]~~53-29-101 and 53-29-201.
- (2) In addition:
  - (a) "SOR certificate of eligibility" has the same meaning as "certificate of eligibility" as defined in Subsection ~~[77-41-102(3)]~~53-29-101(2); and
  - (b) "petitioner" means a person seeking an SOR certificate of eligibility from the bureau; ~~and~~
  - ~~(c) "traffic offense" has the same meaning as defined in Subsection 77-40-102(11);~~

##### **R722-360-4. Application for a Certificate of Eligibility for Removal.**

- (1)(a) A person may apply for an SOR certificate of eligibility by submitting a completed Application for Early Removal of Name from the Sex, ~~Offender~~ Kidnap, and Child Abuse Offender Registry form to the bureau.
- (b) The application form must be accompanied by a payment of the application fee established by the bureau in the form of cash, check, money order, or credit card.
- (2)(a) Upon receipt of a completed application form and payment of the application fee, the bureau shall review each criminal episode contained on the petitioner's criminal history, in its entirety, to determine whether the petitioner meets the requirements for an SOR certificate of eligibility found in Subsections ~~[77-41-112(1)]~~53-29-204 through ~~[77-41-112(3)]~~53-29-206.
- (b) In making its determination, the bureau shall also review all federal, state and local criminal records, to which it has access.
- (3)(a) If the bureau has insufficient information to determine whether the petitioner meets the requirements for an SOR certificate of eligibility, the bureau may require the petitioner to submit additional information.
- (b) If the bureau does not receive additional information requested within 60 days from the date of the request, the petitioner's application shall be denied.
- (4)(a) If the bureau finds that the petitioner meets the requirements for the issuance of an SOR certificate of eligibility, the bureau shall send a letter to the petitioner, at the address indicated on the application form, indicating that the petitioner must pay the issuance fee established by the bureau ~~[in order]~~ to receive the SOR certificate of eligibility.
- (b) If the payment for the certificate of eligibility is not received by the bureau within 60 days from the date of the approval letter:
  - (i) the petitioner's application shall be voided; and
  - (ii) the petitioner will be required to submit a new application form and pay applicable fees.
- (5) If the bureau finds that the petitioner does not meet the criteria for the issuance of an SOR certificate of eligibility, the bureau shall send a letter to the petitioner, at the address indicated on the application form, which describes the reasons why the petitioner's application was denied and notifies the petitioner that the petitioner may seek agency review of the bureau's decision by following the procedures outlined in Section R722-360-5.

##### **R722-360-5. Agency Review of a Decision to Deny an Application for a Certificate of Eligibility for Removal.**

- (1) A petitioner may seek agency review of the denial of an application for an SOR certificate of eligibility, as provided by Section 63G-4-301, by mailing a written request for review to the bureau within 30 days from the date the denial letter is issued.
- (2) The request for agency review must:
  - (a) be signed by the petitioner;
  - (b) state the specific grounds upon which relief is requested;
  - (c) ~~indicate~~state the date upon which it was mailed; and
  - (d) include documentation which supports the petitioner's request for review.
- (3) An employee of the bureau shall be designated to review the petitioner's written request, any accompanying documents supplied by the petitioner, and the materials contained in the application file to determine whether the petitioner meets the requirements for an SOR certificate of eligibility.
- (4)(a) Within a reasonable time after receiving the request for review, the bureau shall issue a final written order on review, which shall be mailed to the petitioner at the address indicated on the application.



(b) If further review indicates that the petitioner meets the requirements for the issuance of an SOR certificate of eligibility, the order shall ~~indicate~~ state that the petitioner must pay the issuance fee before receiving the SOR certificate of eligibility.

(c) If further review indicates that the petitioner does not meet the requirements for an SOR certificate of eligibility, the order shall describe the reasons why the bureau's decision was upheld and notify the petitioner that the petitioner's opportunity to review the bureau's decision is limited to review by the district court as described in Section R722-360-6.

#### **R722-360-6. Judicial Review.**

A petitioner may seek judicial review of the bureau's final written order on review denying an application for an SOR certificate of eligibility, as provided by Section 63G-4-402, by filing a complaint in the district court within 30 days from the date that the bureau's final written order is issued.

**KEY:** certificate of eligibility for removal, sex offender registry, kidnap offender registry, child abuse offender registry

**Date of Last Change:** ~~December 22, 2015~~ 2025

**Notice of Continuation:** December 12, 2022

**Authorizing, and Implemented or Interpreted Law:** 63G-4-203(1); ~~77-41-112; 77-41-102; 77-40-102(1)~~ 53-29-202; 53-29-204; 53-29-205; 53-29-206; 53-29-207

### **NOTICE OF SUBSTANTIVE CHANGE**

**TYPE OF FILING:** Amendment

**Rule or section number:**

**R850-30**

**Filing ID: 57336**

#### **Agency Information**

<b>1. Title catchline:</b>		School and Institutional Trust Lands, Administration
<b>Building:</b>		102 Tower
<b>Street address:</b>		102 S. 200 E., #600
<b>City, state:</b>		Salt Lake City, UT
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chris Fausett	801-538-5139	chrisfausett@utah.gov
Lisa Wells	801-538-5154	lisawells@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

#### **General Information**

<b>2. Rule or section catchline:</b>	
R850-30. Special Use Leases	
<b>3. Are any changes in this filing because of state legislative action?</b>	Changes are because of legislative action.
<b>If yes, any bill number and session:</b>	HB 262 S1 General Session 2024
<b>4. Purpose of the new rule or reason for the change:</b>	
The proposed rule amendment is made in response to a recommendation from the 2024 performance audit of the Trust Lands Administration by the Office of the Legislative Auditor General (OLAG) as stated in the Performance Audit of the School and Institutional Trust Lands Administration: Improving Controls, Accountability, and Proactive Management" (the "Audit"), dated August 20, 2024. Legislative Audit, Recommendation 1.4: "The School and Institutional Trust Lands Administration should revise the Administrative Rules for Special Use Lease Agreements and Renewable Energy Lease Agreements to ensure that the criteria for setting lease rates are clear and consistent with Utah Code pertaining to the receipt of no less than fair market value for the lease of trust lands." Also, the amendment of the rule implements recent changes to the agency's code (Title 53C) regarding leases of large land blocks to the Department of Natural Resources.	
<b>5. Summary of the new rule or change:</b>	
This amendment to Rule R850-30 clarifies that trust lands may not be leased for less than the fair market value of the leasehold as stated by the Legislative Audit, Recommendation 1.4. The amended rule defines "Eligible Properties" that are subject to new leasing authority to the Utah Department of Natural Resources (DNR) and sets forth requirements and processes for the lease of Eligible Properties to DNR.	

**Fiscal Information****6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A. State budget:**

The proposed amendment will clarify rule language regarding the establishment of lease rates to make it clear that trust lands may not be leased for less than the fair market value of the leasehold, pursuant to a recommendation in OLAG's recent performance audit of SITLA. Despite OLAG's finding that the current rule language is unclear, state statute clearly requires that SITLA obtain fair market value for the lease of trust lands. OLAG found no instances of SITLA lessees being charged less than fair market value for their leases, therefore no adjustments to current lease rates will be required.

The proposed amendment also establishes a process for the potential lease of large land blocks to DNR but does not mandate the lease of any trust properties. All leases remain at the discretion of the Trust Lands Administration's director and board of trustees and no state entities are required to lease any trust properties. The fiscal note for HB 262 S1 (2024) did not anticipate any impacts to the state budget from the implementation of this authority.

The amendment to the rule only affects internal processes and will not result in any additional costs or savings to the state budget.

**B. Local governments:**

The proposed amendment will clarify rule language regarding the establishment of lease rates to make it clear that trust lands may not be leased for less than the fair market value of the leasehold, pursuant to a recommendation in OLAG's recent performance audit of SITLA. Despite OLAG's finding that the current rule language is unclear, state statute clearly requires that SITLA obtain fair market value for the lease of trust lands. Local governments occasionally lease trust lands for government purposes such as water storage tanks. OLAG found no instances of SITLA lessees being charged less than fair market value for their leases, therefore no adjustments to current lease rates charged to local government entities will be required.

The proposed amendment does not impose any new requirements or regulatory burdens on local governments. The fiscal note for HB 262 S1 (2024) did not anticipate any fiscal impacts to local government budgets. Therefore, there are no anticipated costs or savings to local governments resulting from the rule amendment.

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

The proposed amendment will clarify rule language regarding the establishment of lease rates to make it clear that trust lands may not be leased for less than the fair market value of the leasehold, pursuant to a recommendation in OLAG's recent performance audit of SITLA. Despite OLAG's finding that the current rule language is unclear, state statute clearly requires that SITLA obtain fair market value for the lease of trust lands. OLAG found no instances of SITLA lessees being charged less than fair market value for their leases. Trust lands are leased to small businesses for a variety of purposes. This can include agricultural, residential, and commercial use leases. The current lease rates charged to small businesses will not be adjusted.

No anticipated fiscal impacts were mentioned in the fiscal note for HB 262 S1(2024) for small businesses. Therefore, the agency doesn't expect any additional costs or savings to small businesses, including those who may hold SITLA leases because of the rule change.

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

The proposed amendment will clarify rule language regarding the establishment of lease rates to make it clear that trust lands may not be leased for less than the fair market value of the leasehold, pursuant to a recommendation in OLAG's recent performance audit of SITLA. Despite OLAG's finding that the current rule language is unclear, state statute clearly requires that SITLA obtain fair market value for the lease of trust lands. OLAG found no instances of SITLA lessees being charged less than fair market value for their leases. Non-small businesses frequently lease trust lands for a variety of purposes, including commercial, telecommunications, and industrial uses. No adjustments to current lease rates for non-small businesses will be required. The fiscal note for HB 262 S1 (2024) did not anticipate any fiscal impacts to non-small businesses. Therefore, it is not anticipated that the amended rule will result in any costs or savings to non-small businesses, including those who may hold SITLA leases.

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

The proposed amendment will clarify rule language regarding the establishment of lease rates to make it clear that trust lands may not be leased for less than the fair market value of the leasehold, pursuant to a recommendation in OLAG's recent

performance audit of SITLA. Despite OLAG's finding that the current rule language is unclear, state statute clearly requires that SITLA obtain fair market value for the lease of trust lands. OLAG found no instances of SITLA lessees being charged less than fair market value for their leases. Other persons, including individuals, occasionally lease trust lands for a variety of uses. No adjustments to current lease rates for any entities will be required. The fiscal note for HB 262 S1 (2024) did not anticipate any fiscal impacts to Utah residents, businesses, or government entities. The amended rule does not require any person to expend any funds. Therefore, there are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities.

**F. Compliance costs for affected persons:**

The proposed amendment will clarify rule language regarding the establishment of lease rates to make it clear that trust lands may not be leased for less than the fair market value of the leasehold, pursuant to a recommendation in OLAG's recent performance audit of SITLA. The rule amendment also establishes internal processes for the leasing of trust lands to DNR. The proposed amendment does not impose any new regulatory burdens on Utah residents or businesses and does not create any new government programs or expand existing programs. There are no anticipated compliance costs for affected persons resulting from the rule amendment.

**G. Regulatory Impact Summary Table** (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)

**Regulatory Impact Summary Table**

<b>Fiscal Cost</b>	<b>FY2026</b>	<b>FY2027</b>	<b>FY2028</b>	<b>FY2029</b>	<b>FY2030</b>
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2026</b>	<b>FY2027</b>	<b>FY2028</b>	<b>FY2029</b>	<b>FY2030</b>
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Director of the School and Institutional Trust Lands Administration, Michelle McConkie, has reviewed and approved this regulatory impact analysis.

**Citation Information**

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

Subsection 53C-1-302(1)(a)	Subsection 53C-4-101(1)	Section 53C-4-104
Section 53C-4-202	28 Stat. 107-112, Utah Enabling Act of 1894, Sections 6, 8, 10, and 12	Utah Constitution Articles X and XX

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.**

**A. Comments will be accepted until:** 09/02/2025

<b>10. This rule change MAY become effective on:</b>	09/09/2025
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

#### Agency Authorization Information

<b>Agency head or designee and title:</b>	Michelle McConkie, Director	<b>Date:</b>	07/14/2025
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### **R850. School and Institutional Trust Lands, Administration.**

#### **R850-30. Special Use Leases.**

##### **R850-30-100. Authorities.**

This rule implements Sections 6, 8, 10, and 12 of the Utah Enabling Act, Articles X and XX of the Utah Constitution, and Subsections 53C-1-302(1)(a)(ii), ~~and 53C-4-101(1), and 53C-4-104(3)~~, which authorize the director to establish criteria for the leasing of trust lands.

##### **R850-30-120. Definitions.**

The term "Eligible Property" when used in Rule R850-30 means trust lands eligible for lease to the Utah Department of Natural Resources pursuant to Section 53C-4-104.

##### **R850-30-150. Planning.**

(1) In addition to those other planning responsibilities described in ~~this~~ Rule R850-30, the ~~director~~~~[agency]~~ shall:

(a) ~~[-]~~ ~~[S]~~ submit proposals to lease trust lands to the Resource Development Coordinating Committee (RDCC) unless the proposal is exempt from such review;

(b) ~~[-]~~ ~~[E]~~ evaluate comments received through the RDCC process; and

(c) ~~[-]~~ ~~[E]~~ evaluate comments received through the request for proposal process pursuant to Section R850-30-310 or the solicitation process pursuant to Section R850-30-500, as applicable.

(2) The director is not required to submit proposals to the RDCC for the lease of trust lands to the Utah Department of Natural Resources made pursuant to Section R850-30-700.

##### **R850-30-200. Terms of Leases.**

Lease terms should not normally be for longer than 30 years, except that telecommunication and agricultural leases should not normally be for longer than 20 years. Extensions to a lease term should not normally be for longer than 20 years. The ~~director~~~~[agency]~~ may issue leases for a term longer than 30 years or extend a term ~~for~~ longer than 20 years if a longer term is consistent with the land management objectives found in Rule R850-2.

##### **R850-30-300. Categories of Special Use Leases.**

Special use leases are categorized as follows:

(1) ~~[-]~~ Commercial;

(2) ~~[-]~~ Industrial;

(3) ~~[-]~~ Agricultural;

(4) ~~[-]~~ Telecommunications;

(5) ~~[-]~~ Residential; and

(6) ~~[-]~~ Governmental.

##### **R850-30-305. Other Business Arrangements.**

(1) ~~[-]~~ The ~~director~~~~[agency]~~ may enter into other business arrangements (OBAs), such as joint venture and lease to sell agreements, that are consistent with the purposes of ~~the Act~~ Title 53C, School and Institutional Trust Lands Management Act.

(2) ~~[-]~~ OBAs are exempt from ~~these~~ Rule R850-30~~-rules~~.

(3) ~~[-]~~ OBAs and any amendments to OBAs must be approved by the ~~board~~ ~~Board of Trustees~~.

##### **R850-30-310. Requests for Proposals.**

(1) ~~[-]~~ The ~~director~~~~[agency]~~ may issue a request for proposals (RFP) for surface uses of trust lands.

(2) ~~[-]~~ The ~~director~~~~[agency]~~ shall give notice of the RFP to lessees or permittees of record on the subject property and shall advertise the RFP by methods determined by the ~~director~~~~[agency]~~ to increase exposure of the subject property to qualified applicants.

(3) ~~[-]~~ In response to the RFP, an applicant may propose a sale, lease, joint development, exchange, or other business arrangement.

(4) ~~[-]~~ The ~~director~~~~[agency]~~ shall evaluate proposals using the following criteria:

(a) income potential;

(b) potential enhancement of trust lands;

(c) development timeline;

(d) applicant qualifications;

(e) desirability of proposed use; and

(f) any other criterion deemed appropriate by the ~~director~~~~[agency]~~.

(5)[~~-~~] The director[~~agency~~] may charge non-refundable application and review fees, as specified in the RFP.

(6)[~~-~~] Applicants selected in the RFP process are exempt from the application process in Section R850-30-500.

#### **R850-30-400. Lease Rates.**

(1)[~~-~~] The director[~~agency~~] may not lease trust lands for less than the fair market value of the leasehold. The director shall base the fair market lease rates on either the market value or income producing capability of the subject property and may require any commercially reasonable type of consideration, including rent, percentage rent, use payments, impact charges, escalating charges, balloon payments, and in-lieu payments.[~~-~~] The director[~~agency~~] may base lease rates on any of the following criteria, in combination or otherwise:

(a) the estimated [~~market~~] value of the subject property, as informed by an appraisal, market analysis, or other relevant data, multiplied by the current agency-determined interest rate;

(b) responses to RFPs, pursuant to Section R850-30-310, or solicitations for competing applications, pursuant to Section R850-30-500;

(c)[~~b~~] comparable lease data;

(d)[~~e~~] market value of the proposed use of the subject property;

(e)[~~d~~] rates schedules approved by the director;

(f)[~~e~~] the administrative costs of leasing the subject property and a desired minimum rate of return; and

(g)[~~f~~] a fixed rate per acre or a crop-share formula for agricultural leases providing that the lease rate is customary and reasonable.

(2)[~~-~~] If a lease rate is lower than the value calculated pursuant to Subsection R850-30-400(1)(a), the director shall reserve[~~The agency may base lease rates on a value other than the market value of the subject property if the director determines it is in the best interest of the beneficiaries and the agency has~~] the right to terminate the lease before the end of the term.

(3)[~~-~~] Lease Review and Adjustment Procedures.

(a) The director[~~agency~~] shall review special use leases periodically as specified in the lease agreement and may adjust lease rates, the amount of financial guaranty, the amount of required insurance, and other similar lease provisions to ensure the agency receives no less than fair market value for the subject property and is adequately protected against a lessee's breach. Periodic lease reviews should normally be no less frequent[~~longer~~] than every five years.

(b) The director[~~agency~~] may base lease rate adjustments on changes in market value including appreciation of the subject property, changes in established indices, or other methods that are appropriate and in the best interest of the trust beneficiaries.

(c) If the lease does not specify the rate of adjustment, the rate of adjustment will be based on the Consumer Price Index, published by the U.S. Bureau of Labor Statistics, All Urban Consumers, Western Region Average, All Items (1982-84 = 100), or if the Consumer Price Index is no longer published, a substitute index published by a governmental agency and comparable to the Consumer Price Index. The adjusted lease rate cannot be less than the lease rate for the immediately preceding review period.

(d) The director may suspend, defer, or waive lease adjustments in specific instances, based on a written finding that the suspension, deferral, or waiver is in the best interest of the trust beneficiaries.

#### **R850-30-500. Solicitation of Competing Applications.**

(1)[~~-~~] On acceptance by the director[~~agency~~] of a completed special use lease application, the director[~~agency~~] shall solicit competing interest in the subject property[~~parcel~~]. The director may waive this requirement if it is in the best interest of the trust beneficiaries.

(2)[~~-~~] The following classes of leases are exempt from the requirements of Subsection R850-30-500(1):

(a) Telecommunications; and

(b) Mineral and oil and gas extraction facilities to extract the mineral estate of the subject property when the mineral estate is not a trust asset.

(3)[~~-~~] The director[~~agency~~] shall solicit competing interest in the subject property[~~parcel~~] by giving at least 30 days' notice by certified mail to:

(a) the legislative body of the county in which the subject property[~~parcel~~] is located;

(b) lessees or permittees of record on the subject property; and

(c) adjoining landowners as shown on readily accessible county records or other credible records.

(4)[~~-~~] In addition to the notices required under Subsection R850-30-500(3), the director[~~agency~~] may solicit competing interest in the subject property[~~parcel~~] by methods determined by the director[~~agency~~] to increase exposure of the subject property to qualified applicants.

(5)[~~-~~] The notice of solicitation of competing interest must include:

(a) a general description of the subject property[~~parcel~~] and a brief description of its location, including township, range, and section;

(b) the contact information of the agency office where interested parties can obtain more information; and

(c) any other information that may create interest in the subject property[~~parcel~~] that does not violate the confidentiality of the initial application. The successful applicant is responsible for the cost of the advertising.

(6)[~~-~~] The director[~~agency~~] may solicit competing interests on trust lands when no application has been received by advertising a property[~~parcel~~] pursuant to the process described in [~~this~~] Section R850-30-500 or any other means, when in the best interest of the trust beneficiaries.

(7)[~~-~~] In response to a solicitation, an applicant may propose a sale, lease, joint development, exchange, or other business arrangement.

## NOTICES OF PROPOSED RULES

### **R850-30-510. Competing Proposals.**

(1) If the agency receives credible competing proposals in response to the solicitation process conducted pursuant to Section R850-30-500, the director[agency] may select a proposal using the following methods:

(a) Sealed Bid Process.

(i) The director[agency] shall give the competing applicants notice setting forth the date on which the applicants must submit a final sealed proposal to the agency.

(ii) The director[agency] may reject proposals received after the established due date.

(iii) The director[agency] may require proposals for a lease to include the first year's rental, proposals for a sale to include a down payment on the proposed purchase price, and payments to cover the agency's costs of advertising and application fees.

(iv) The director[agency] shall evaluate proposals using the following criteria:

(A) income potential;

(B) potential enhancement of trust lands;

(C) development timeline;

(D) applicant qualifications;

(E) desirability of proposed use; and

(F) any other criterion deemed appropriate by the director[agency].

(b) The director[agency] may negotiate with the applicants or interested persons to create a proposal that best satisfies the objectives of Rule R850-2.

(2) The director[agency] may terminate the application process at any time in its sole discretion.

### **R850-30-550. Lease Determination Procedures.**

The director[agency] may not lease trust lands when leasing:

(1) would be inconsistent with board policy or would not be in the best interest of the trust beneficiaries;

(2) would create significant obstacles to future mineral development; or

(3) would foreclose future development or management options that would likely result in greater long term economic benefit.

### **R850-30-600. Special Use Lease Provisions.**

Each lease must contain provisions necessary to ensure responsible surface management, including those provisions enumerated under Section 53C-4-202, and the following provisions:

(1) the term of the lease;

(2) the lease rate and other payments due to the agency;

(3) reporting of technical and financial data;

(4) reservation for mineral exploration and development and other compatible uses, unless waived by the director;

(5) operation requirements;

(6) lessee's consent to suit in any dispute arising under the terms of the lease or as a result of operations carried on under the lease;

(7) procedures of notification;

(8) transfers of lease interest by lessee;

(9) terms and conditions of lease forfeiture; and

(10) protection of the state from liability associated with the actions of the lessee on the subject property.

### **R850-30-700. Lease of an Eligible Property to the Utah Department of Natural Resources.**

(1) When evaluating the lease of an Eligible Property to the Utah Department of Natural Resources pursuant to Section 53C-4-104, the director shall consider the following factors:

(a) whether selling the Eligible Property to the Utah Department of Natural Resources pursuant to Section R850-80-630 would better serve the interests of the affected beneficiaries; and

(b) whether waiving the advertising requirements described in Subsection 53C-4-102(3) and Title R850 pursuant to Subsection 53C-4-104(1)(c) is in the best interest of the affected beneficiaries.

(2) The determination of the fair market value of the leasehold pursuant to Section R850-30-400 shall be informed by at least one valuation appraisal, as that term is defined in Subsection 61-2g-102(1)(a)(ii)(C).

(3) An appraisal conducted under this section must comply with the current Uniform Standards of Professional Appraisal Practice and be conducted by a qualified independent third-party appraiser. The director may require that appraisals comply with the Uniform Standards for Federal Land Acquisitions.

(4) A qualified appraiser under this section must:

(a) be a state-certified general appraiser, as that term is defined in Section 61-2g-102; and

(b) have demonstrated experience in appraising large rural properties.

(5) The director shall make a written finding that upon consideration of the factors listed in Section R850-30-550 and Subsection R850-30-700(1) the lease of an Eligible Property to the Utah Department of Natural Resources is in the best interest of the affected beneficiaries. The director shall provide the written finding to the board.

(6) The board must consider the lease of an Eligible Property at an open meeting and take public comment on:

(a) the terms of the proposed leased; and

(b) the director's finding that waiving the advertising requirements pursuant to Subsection 53C-4-104(1)(c) is in the best interest of the beneficiaries.

(7) At least 30 days prior to the board's consideration of the lease at an open meeting, the director shall give notice of the proposed lease to:

(a) the legislative body of each county in which a portion of the Eligible Property is located;

(b) lessees and permittees of record on the Eligible Property;

(c) adjoining landowners as shown on county records;

(d) the affected beneficiary institution; and

(e) the Land Trusts Protection and Advocacy Office.

(8) The notice of lease must include:

(a) a general description of the Eligible Property and a brief description of its location, including township, range, and section; and

(b) the date, time, and location of the meeting where the board will consider the lease.

(9) The lease of an Eligible Property under Section 53C-4-104 must be approved by the board before the director may execute the lease.

(10) The director may require the Utah Department of Natural Resources to deposit funds in advance to offset the anticipated costs to prepare the parcel for lease.

(a) If the director terminates the lease application prior to finalization of a lease agreement, the director shall refund the deposit to the department.

(b) If the department withdraws the lease application prior to finalization of a lease agreement, the agency may retain the deposit.

#### **R850-30-800. Financial Guaranties.**

(1)[-] The director[agency] may require a lessee to provide a financial guaranty to the agency to ensure compliance with lease terms including performance, payment, and reclamation. The financial guaranty must be in a form and in an amount acceptable to the director[agency].

(2)[-] If a lessee assigns a lease, the director[agency] is not obligated to release the financial guaranty of the assignor until the assignee submits an equivalent replacement financial guaranty or any lease obligations, including reclamation, have been satisfied.

(3)[-] The director[agency] may increase the amount of the financial guaranty in reasonable amounts at any time by giving lessee 30 days' written notice stating the increase and the reasons for the increase.

#### **R850-30-900. Lease Assignments and Subleases.**

(1)[-] Assignments.

(a) A lessee may only assign a lease if the director[agency] consents to the assignment. Any assignment made without such approval is voidable in the director's[agency's] discretion.

(b) On the effective date of the assignment, the assignee is bound by the terms of the lease to the same extent as if the assignee were the original lessee, any conditions in the assignment to the contrary notwithstanding.

(c) An assignee must provide the director[agency] with a copy of the assignment document, which must be a sufficient legal instrument, properly executed, with the lease number, the land involved, the name and address of the assignee, and the interest transferred clearly indicated.

(d) As a condition of the approval of an assignment, the director[agency] shall require:

(i) the assignee to accept the most current applicable lease form unless continuation of the existing form is clearly in the best interests of the trust beneficiaries; and

(ii) the assignee be satisfactory to the director[agency].

(2)[-] Subleases.

(a) A lessee may only sublease a lease if the director[agency] consents to the sublease. A sublease made without such approval is voidable in the director's[agency's] discretion.

(b) The lessee must indemnify the agency for actions or inactions of the sublessee and the director[agency] may look to either the lessee or the sublessee for compliance with the lease.

(c) A lessee must provide the agency with a copy of the sublease document, which must be a sufficient legal instrument, properly executed, with the lease number, the land involved, the name and address of the sublessee, the interest subleased, and the financial benefit to lessee clearly indicated.

(d) The director[agency] may require lessee and sublessee to provide annual financial documentation that clearly identifies the revenue generated on the property by sublessee and the revenue paid by sublessee to lessee.

(e) The director[agency] may charge the lessee sublease rates based on the then current market rental value of the subject property, the revenue paid by sublessee to lessee, and [such] other factors as the director[agency] deems reasonable.

(f) Rather than approve the sublease, the director may require that the proposed sublessee enter into a new lease with agency for the subleased portion of the subject property.

(3) The Utah Department of Natural Resources may not assign or sublease a lease of an Eligible Property made pursuant to Section R850-30-700.

#### **R850-30-1000. Lease Amendments.**

(1)[-] The director[agency] may amend a lease if the amendment would be consistent with Rule R850-2. Unless waived by the director, the director[agency] shall solicit competing interest pursuant to Section R850-30-500 if:

## NOTICES OF PROPOSED RULES

- (a) the total amended acreage exceeds 150% of the original acreage;
  - (b) the lease term, including any extensions is longer than 50 years; or
  - (c) the proposed amended purpose of the lease is substantially different from the original purpose.
- (2)[-] The ~~director~~~~[agency]~~ may condition approval of an amendment on the lessee accepting the current lease form.

**KEY:** administrative procedures, leases, trust land management, request for proposals

Date of Last Change: ~~2025~~~~[August 8, 2022]~~

Notice of Continuation: May 26, 2022

Authorizing, and Implemented or Interpreted Law: 53C-1-302(1)(a); 53C-4-101(1); 53C-4-104; 53C-4-202

### NOTICE OF SUBSTANTIVE CHANGE

**TYPE OF FILING:** Amendment

**Rule or section number:**

**R850-80**

**Filing ID: 57337**

### Agency Information

1. Title catchline:		School and Institutional Trust Lands, Administration	
Building:		102 Tower	
Street address:		102 S. 200 E., #600	
City, state:		Salt Lake City, UT	
Contact persons:			
Name:		Phone:	Email:
Chris Fausett		801-538-5139	chrisfausett@utah.gov
Lisa Wells		801-538-5154	lisawells@utah.gov
Please address questions regarding information on this notice to the persons listed above.			

### General Information

<b>2. Rule or section catchline:</b>	
R850-80. Sale of Trust Lands	
<b>3. Are any changes in this filing because of state legislative action?</b>	Changes are because of legislative action.
<b>If yes, any bill number and session:</b>	HB 262 S1 General Session 2024 and HB 483 S5 General Session 2025
<b>4. Purpose of the new rule or reason for the change:</b>	
The proposed rule amendment is to the agency's administrative rules governing sales of trust lands to implement recent changes to the agency's code (Title 53C) regarding both sales of large land blocks to the Department of Natural Resources (DNR), as well as a preferential purchase right granted to incumbent lessees and permittees under certain circumstances.	
<b>5. Summary of the new rule or change:</b>	
This amendment to Rule R850-80 defines "Eligible Properties" as subject to new sales authority and sets forth process and requirements for the sale of Eligible Properties to DNR. The amendment outlines requirements for a Director's finding for the sale of Trust Lands to DNR. A process to determine the fair market value for sales of large blocks to DNR is defined and appraisal standards and appraiser qualifications are established. Also, the proposed rule implements the preferential right of certain incumbent lessees and permittees to purchase trust lands as a "Statutory Purchase Right". In addition, the amendment establishes requirements for the agency to give notice to the holders of such rights for the determination of fair market value for such parcels and for the holders of such rights to exercise them in the context of both auction and negotiated sales.	

### Fiscal Information

<b>6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>	
<b>A. State budget:</b>	
The proposed rule amendment establishes a process for the potential sale of large land blocks to the Department of Natural Resources but does not mandate the sale of any trust properties. All sales remain at the discretion of the Trust Lands Administration's director and board of trustees and no state entities are required to purchase any properties offered for sale.	



The fiscal notes for HB 262 S1 (2024) and HB 483 S5 (2025) did not anticipate any impacts to the state budget from the implementation of the portion of the statute addressed by the rule amendment. Therefore, there are no anticipated costs or savings to the state budget resulting from the rule amendment.

**B. Local governments:**

The proposed rule amendment does not impose any new requirements or regulatory burdens on local governments. The fiscal notes for HB 262 S1 (2024) and HB 483 S5 (2025) did not anticipate any fiscal impacts to local government budgets. There are no anticipated costs or savings to local governments resulting from the rule amendment.

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

The proposed rule amendment establishes a process for certain incumbent lessees and permittees on trust lands to exercise a preferential purchase right on qualifying trust properties that are offered for sale by the agency if they choose to do so. Some of the qualifying lessees or permittees may be small businesses. The amended rule does not require that qualifying parties purchase any trust lands offered for sale. No anticipated fiscal impacts were mentioned in the fiscal note for HB 262 S1(2024) for small businesses. Therefore, the agency doesn't expect any additional costs or savings to small businesses because of the rule change.

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

The proposed rule amendment establishes a process for certain incumbent lessees and permittees on trust lands to exercise a preferential purchase right on qualifying trust properties that are offered for sale by the agency if they choose to do so. Some of the qualifying lessees or permittees may be "non-small business" entities. The amended rule does not require that qualifying parties purchase any trust lands offered for sale. The fiscal notes for HB 262 S1 (2024) and HB 483 S5 (2025) did not anticipate any fiscal impacts to non-small businesses. Therefore, there are no anticipated costs or savings to non-small businesses resulting from the rule amendment.

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

The proposed rule amendment establishes processes for the potential sale of large land blocks to the Department of Natural Resources and for certain incumbent lessees and permittees to exercise a preferential right of purchase on qualifying trust properties offered for sale. The rule amendment implements statutory provisions in HB 262 S1 (2024) and HB 483 S5 (2025). The fiscal notes for these bills did not anticipate any fiscal impacts to Utah residents, businesses, or government entities. The amended rule does not require any person to expend any funds. Therefore, there are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities.

**F. Compliance costs for affected persons:**

The proposed rule amendment establishes internal processes for the Trust Lands Administration and does not impose any new regulatory burdens on Utah residents or businesses and does not create any new government programs or expand existing programs. There are no anticipated compliance costs for affected persons resulting from the rule amendment.

**G. Regulatory Impact Summary Table** (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)

Regulatory Impact Summary Table					
Fiscal Cost	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0

## NOTICES OF PROPOSED RULES

Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Director of the School & Institutional Trust Lands Administration, Michelle McConkie, has reviewed and approved this regulatory impact analysis.

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

Subsection 53C-1-302(1)(a)	Subsection 53C-2-201(1)(a)	Subsection 53C-4-101(1)
Section 53C-4-102	Section 53C-4-104	Subsection 53C-4-202(6)
Section 63G-2-305	Subsection 72-5-203(1)(a)	Subsection 72-5-203(2)(a)
28 Stat. 107-112, Utah Enabling Act of 1894, Sections 6, 8, 10, and 12	Utah Constitution Articles X and XX	

**Public Notice Information**
**9. The public may submit written or oral comments to the agency identified in box 1.**
**A. Comments will be accepted until:**

09/02/2025

**10. This rule change MAY become effective on:**

09/09/2025

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Michelle McConkie, Director	<b>Date:</b>	07/14/2025
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**R850. School and Institutional Trust Lands, Administration.**
**R850-80. Sale of Trust Lands.**
**R850-80-100. Authorities.**

This rule implements Sections 6, 8, 10, and 12 of the Utah Enabling Act, Articles X and XX of the Utah Constitution, and Subsections 53C-1-302(1)(a)(ii), ~~and~~ 53C-4-101(1), and 53C-4-104(3), which authorize the director to prescribe the terms and conditions for the sale of trust lands.

**R850-80-120. Definitions.**

The terms, when used in Rule R850-80, are defined as follows:

- (1) "Eligible Property" means trust lands eligible for sale to the Utah Department of Natural Resources pursuant to Section 53C-4-104.
- (2) "Statutory Purchase Right" means the right of purchase granted to certain lessees or permittees pursuant to Subsection 53C-4-102(9).

**R850-80-150. Planning.**

(1) In addition to those other planning responsibilities described ~~here~~ in Title R850, the ~~director~~~~[agency]~~ shall:

- (~~1~~)~~a~~) (~~S~~) submit proposals for the sale of trust lands to the Resource Development Coordinating Committee (RDCC) unless the proposal is exempt from ~~such~~ review;
- (~~2~~)~~b~~) (~~E~~) evaluate comments received through the RDCC process; and
- (~~3~~)~~c~~) (~~E~~) evaluate any comments received through the notice and advertising processes conducted pursuant to Sections R850-80-605 and R850-80-615.

(2) The director is not required to submit proposals to the RDCC for the sale of trust lands to the Utah Department of Natural Resources made pursuant to Section R850-80-630.

**R850-80-200. Determination to Sell Trust Lands.**

(1) The director may sell trust lands if the director determines that the sale would be in the best interest of the trust beneficiaries. The director may take into account any factor and circumstances deemed relevant in determining whether to sell trust lands.

(2) In determining whether the sale of trust lands is in the best interest of the trust beneficiaries, the director may consider the following factors:

- (a) whether the subject parcel is appreciating in value at a higher rate than the anticipated rate of return on the purchase price;
  - (b) whether there is evidence of competitive market interest, unless the purpose of the sale is to test the market in a particular area;
  - (c) whether the sale would create obstacles to future mineral development on trust lands; or
  - (d) whether, in the director's sole discretion, the sale would foreclose future development or management options that would likely result in greater long-term economic benefits.
- (3) The director may not sell trust lands for less than fair market value.

**R850-80-250. Evaluation of Temporary Easements, Rights-of-Entry, and Other Existing Rights of Record.**

Prior to the sale of trust lands, the director[agency] shall determine, pursuant to Subsection R850-40-250(2), whether temporary easements or rights-of-entry exist on the subject parcel. The director[agency] shall also evaluate the presence and impact of other valid existing rights of record on the subject parcel prior to sale.

**R850-80-300. Determination of Fair Market Value.**

(1) If the director determines that the sale of a parcel of trust lands is in the best interest of the beneficiaries, the director[agency] shall determine the fair market value of the parcel. In determining the fair market value of a parcel, the director[agency] may consider one or more of the following:

- (a) a[an] valuation appraisal, as that term is defined in Subsection 61-2g-102(1)(a)(ii)(C);
  - (b) a market analysis, including evaluation of real estate trends, market demand, opportunity costs of the sale, and the management costs of retention; [and] or
  - (c) other information that the director[agency] considers relevant.
- (2) The director[agency] shall evaluate whether taking prudent and cost-effective actions would increase the fair market value of the parcel.

**R850-80-350. Statutory Purchase Right.**

(1) Prior to initiating the advertising process for a public auction as directed by Section R850-80-605, or for a negotiated sale as directed by Section R850-80-615, the director shall determine whether a Statutory Purchase Right exists on the trust lands intended for sale.

(2) At least 30 days prior to the sale of trust lands upon which a Statutory Purchase Right exists, the director shall give notice via certified mail to the holder of the right providing information on how the holder may exercise the right.

**R850-80-400. Deposits on Nominated Parcels.**

(1) If the director evaluates a parcel of trust lands for sale due to a nomination by an interested party, the director[agency] may require the nominator to deposit funds to offset the costs incurred by the agency to prepare the subject parcel for sale.

(2) If the nominator purchases the subject parcel, the director[agency] shall credit the deposit against those costs and fees charged by the agency pursuant to Subsections R850-80-610([4]5) and R850-80-620([4]6).

(3) If the director[agency] does not offer the subject parcel for sale or if a party other than the nominator [submits a credible bid on the subject parcel but] is [not] the successful bidder, the director[agency] may[shall] refund the deposit to the nominator. If the subject parcel is offered for sale but no credible bids are received by the agency, the agency may retain the deposit. A bid less than a disclosed minimum acceptable purchase price is not a credible bid.

**R850-80-500. Agency Financing.**

(1) The director[agency] may offer financing at a variable interest rate on any unpaid portion of the purchase price or other costs owed by the purchaser.

(2) Unless otherwise determined by the director, the interest rate shall be equal to the greater of:

- (a) the prime rate plus 2.5%; or
- (b) 7.5%.

(3) The director[agency] shall establish the interest rate for each payment due by determining the prime rate as of the date of billing, except for interest due pursuant to Subsections R850-80-610([6]8) and R850-80-620([4]6).

(4) Interest is calculated on a 365-day basis, except for interest due pursuant to Subsections R850-80-610([6]8) and R850-80-620([4]6).

(5) The director[agency] shall use the prime rate established as of a date determined by the director prior to the sale to determine the interest due pursuant to Subsections R850-80-610([6]8) and R850-80-620([4]6).

(6) A purchaser that finances through the agency shall make annual payments on the debt for no longer than 20 years. The director[agency] may establish a shorter financing period.

(7) The purchaser shall make the first payment on or before one year from the first day of the month following the date of sale. The purchaser shall make all subsequent payments on or before the first day of the same month of each year thereafter until the balance is paid in full. The director[agency] may require more frequent payments.

## NOTICES OF PROPOSED RULES

(8) The director[agency] shall apply amounts paid in excess of the current obligation to principal. The purchaser may pre-pay the unpaid balance and accrued interest at any time without penalty.

(9) If the purchaser fails to pay an annual payment or accrued interest when due, the director[agency] shall send the purchaser notice of default and allow the purchaser to cure the default, including paying any late fees, within 30 days of the notice. If the purchaser fails to cure the default within the 30-day cure period, the director[agency] may accelerate the debt, forfeit the purchaser's interest in the subject parcel, and pursue all other available contractual, legal, or equitable remedies, including specific performance.

(10) A purchaser that finances through the agency shall execute and acknowledge a quitclaim deed in favor of the agency for the subject parcel. The director[agency] may not record the quitclaim deed unless the director[agency] forfeits the purchaser's interest in the subject parcel pursuant to Subsection R850-80-500(5).

### **R850-80-600. Methods of Sale.**

The director may sell trust lands through[using one of the methods described below]:

- (1) ~~[A]~~a public auction pursuant to Section R850-80-610; ~~[-or]~~
- (2) ~~[A]~~a negotiated sale pursuant to Section R850-80-620; ~~[-]; or~~
- (3) a sale of an Eligible Property to the Utah Department of Natural Resources pursuant to Section R850-80-630.

### **R850-80-605. Advertisement of Public Auction.**

(1) At least 45 days prior to a public auction, the director[agency] shall give notice by certified mail to:

- (a) the legislative body of the county in which the subject parcel is located;
- (b) any lessees~~[/]~~ or permittees of record on the subject parcel; and
- (c) adjoining landowners as shown on county records.

(2) The notice of sale must include:

- (a) the date and time of the auction;
- (b) whether the auction will be held in person or by electronic means;
- (c) if the auction is held in person, the location of the auction;
- (d) if the auction is held electronically, the ways in which a potential bidder may participate;
- (e) a general description of the subject parcel and a brief description of its location, including township, range, and section; ~~[-and]~~
- (f) disclosure of a Statutory Purchase Right if applicable; and

~~[(f)]g~~ the contact information of the agency office where interested parties can obtain more information.

(3) The director[agency] may advertise public auctions using other methods determined by the director[agency] to increase competition at the auction.

### **R850-80-610. Public Auction Rules and Procedures.**

(1) The director[agency] may conduct a public auction in person or electronically.

(2) The director[agency] shall publish the bidding procedures at the agency's website, which procedures must include:

- (a) information required to register for the auction, if applicable;
- (b) payments required to be paid at the auction by the successful bidder, including the down payment and costs and fees assessed by the director[agency] pursuant to Subsection R850-80-610(~~[4]~~5); ~~[-and]~~

(c) whether the director[agency] is willing to finance the unpaid portion of the purchase price~~[-]; and~~

~~[-]~~ disclosure of a Statutory Purchase Right if applicable.

(3) The director[agency] may disclose the minimum acceptable purchase price for the subject parcel.

~~[-]~~ The holder of a Statutory Purchase Right must be registered for the auction to exercise the right.

~~[(4)]~~5 The director[agency] may require that the successful bidder reimburse the agency for costs incurred by the agency in preparing the subject parcel for sale, including the costs of advertising, appraisal, cultural resource investigations, and environmental assessments. The director[agency] may also charge a sale processing fee.

~~[(5)]~~6 A bid constitutes a valid offer to purchase.

~~[-]~~ The holder of a Statutory Purchase Right may exercise the right by matching the higher of the highest credible bid received by the agency or the agency-established minimum acceptable purchase price within 24 hours of the conclusion of the auction. If the holder exercises its Statutory Purchase Right, it will be deemed the successful bidder. If the holder does not exercise its Statutory Purchase Right, the holder waives the right with respect to the particular sale. To exercise a Statutory Purchase Right, the holder must give the agency written notice and pay all amounts required for a bidder to acquire the subject parcel within the 24 hour period.

~~[(6)]~~8 At the conclusion of the auction, the successful bidder shall pay the agency the down payment, the costs and fees published pursuant to Subsection R850-80-610(~~[4]~~5), and if the successful bidder elects to finance through the agency, the interest on the unpaid balance as calculated from the date of sale to the first day of the following month.

~~[(7)]~~9 If the successful bidder does not finance the remainder of the purchase price through the agency, the successful bidder shall pay the remainder of the purchase price at the conclusion of the auction. If the successful bidder fails to pay the purchase price at the auction, the director[agency] is not required to finalize the transaction and the agency may retain all amounts paid by the successful bidder at the auction.

~~[(8)]~~10 If the successful bidder fails to pay the amounts required under Subsection R850-80-610(~~[6]~~8) or fails to execute the certificate of sale within 30 days, pursuant to Subsection R850-80-700(2), the director may offer the subject parcel for sale to the person whose bid was second highest at the auction. The purchase price paid by the second highest bidder must meet or exceed the minimum

acceptable purchase price. To accept the director's[agency's] offer, the second highest bidder shall submit all amounts owing under Subsection R850-80-610([6]8) or R850-80-610([7]9) and execute the certificate of sale within 30 days after the director's[agency's] offer.

([9]11) If a third party owns improvements on a parcel of trust lands sold at auction that were installed pursuant to a valid permit or other right granted by the director[agency] and the[such] valid right does not survive the sale of the parcel, the purchaser shall permit the owner of the improvements to remove them within 90 days after the date of the auction.

#### **R850-80-615. Advertisement of Negotiated Sale.**

(1) The director[agency] shall give notice of a negotiated sale by certified mail to:

- (a) the legislative body of the county in which the subject parcel is located;
- (b) any lessees[?] or permittees of record on the subject parcel; and
- (c) adjoining landowners as shown on county records.

(2) The notice of sale must include:

- (a) a general description of the subject parcel and a brief description of its location, including township, range, and section; ~~and~~
- (b) disclosure of a Statutory Purchase Right if applicable; and

~~(b)c~~ the contact information of the agency office where interested parties can obtain more information.

(3) Negotiated sales must be advertised using methods determined by the director[agency] to be in the best interest of the beneficiaries.

#### **R850-80-620. Negotiated Sale Procedures.**

(1) If the agency receives an expression of competitive interest within the notice period, the director[agency] shall evaluate the offer and determine what action is in the best interest of the beneficiaries.

(2) The director shall provide the holder of a Statutory Purchase Right an opportunity to exercise the right within a time period determined by the director. To exercise a Statutory Purchase Right, the holder must give the agency written notice within the allotted time period and pay the higher of:

- (a) the fair market value of the subject parcel as determined pursuant to Section R850-80-300; or
- (b) the highest credible offer and associated terms of the sale received for the subject parcel.

(3) If the holder of a Statutory Purchase Right does not exercise the right within the allotted time period, the holder waives the right with respect to the particular sale.

([2]4) The director[agency] shall give the board and affected beneficiary prior notice of the proposed negotiated sale, which notice must describe the terms, reasons, and other pertinent facts of the proposed negotiated sale.

([3]5) Board approval of a negotiated sale is required if:

- (a) the fair market value of the subject parcel exceeds \$250,000~~[-00]~~;
- (b) the subject parcel[property] exceeds 320 acres; or
- (c) the agency receives a competitive offer on the subject parcel.

([4]6) The director[agency] may require the purchaser to pay a down payment and the costs and fees described in Subsection R850-80-610([4]5)

#### **R850-80-630. Sale of an Eligible Property to the Utah Department of Natural Resources.**

(1) When evaluating the sale of an Eligible Property to the Utah Department of Natural Resources pursuant to Section 53C-4-104, the director shall consider the following factors:

(a) whether leasing the Eligible Property to the Utah Department of Natural Resources pursuant to Section R850-30-700 would better serve the interests of the affected beneficiaries; and

(b) whether waiving the advertising requirements described in Subsection 53C-4-102(3) and Title R850 pursuant to Subsection 53C-4-104(1)(c) is in the best interest of the affected beneficiaries.

(2) The director shall require payment of at least fair market value as determined pursuant to Section R850-80-635 for the sale of an Eligible Property to the Utah Department of Natural Resources.

(3) The director shall make a written finding that upon consideration of the factors listed in Subsections R850-80-200(2)(a), R850-80-200(2)(c), R850-80-200(2)(d), and R850-80-630(1), the sale of Eligible Property to the Utah Department of Natural Resources is in the best interest of the affected beneficiaries. The director shall provide the written finding to the board.

(4) The board must consider the sale of an Eligible Property at an open meeting and take public comment on:

(a) the terms of the proposed sale; and

(b) the director's finding that waiving the advertising requirements pursuant to Subsection 53C-4-104(1)(c) is in the best interest of the affected beneficiaries.

(5) At least 30 days prior to the board's consideration of the sale at an open meeting, the director shall give notice of the proposed sale to:

- (a) the legislative body of each county in which a portion of the Eligible Property is located;
- (b) lessees and permittees of record on the Eligible Property;
- (c) adjoining landowners as shown on county records;
- (d) the affected beneficiary institution; and
- (e) the Land Trusts Protection and Advocacy Office.

(6) The notice of sale must include:

- (a) a general description of the Eligible Property and a brief description of its location, including township, range, and section; and

- (b) the date, time, and location of the meeting where the board will consider the sale.
- (7) The sale of an Eligible Property under Section 53C-4-104 must be approved by the board before the director may execute the transaction.
- (8) The director may require the Utah Department of Natural Resources to deposit funds in advance to offset the anticipated costs to prepare the Eligible Property for sale.
- (a) If the director terminates the sale prior to finalization of a certificate of sale, the director shall refund the deposit to the department.
- (b) If the department terminates the sale prior to finalization of a certificate of sale, the agency may retain the deposit.
- (9) The director may offer financing to the Utah Department of Natural Resources pursuant to Section R850-80-500. If the department finances through the agency, the director may require the department to pay a down payment in an amount determined by the director.
- (10) A Statutory Purchase Right does not apply to any portion of an Eligible Property offered for sale to the Utah Department of Natural Resources.

**R850-80-635. Determination of Fair Market Value for an Eligible Property.**

- (1) The director shall obtain two valuation appraisals for the Eligible Property with the same date of value.
- (a) If the difference between the two appraisal valuations is less than or equal to 10% of the higher valuation, the fair market value is the average of the two appraisal valuations.
- (b) If the difference between the two appraisal valuations is greater than 10% of the higher valuation, the director shall obtain a third appraisal having the same date of value as the initial appraisals. The fair market value of the Eligible Property is the average of the two closest appraisal valuations, provided that if the middle appraisal is the average of the highest and lowest appraisal valuations, the fair market value is the middle appraisal valuation.
- (2) Appraisals conducted under this section must comply with the Uniform Standards of Professional Appraisal Practice and be conducted by a qualified independent third-party appraiser. The director may require that appraisals comply with the Uniform Standards for Federal Land Acquisitions.
- (3) A qualified appraiser under this section must:
  - (a) be a state-certified general appraiser, as that term is defined in Section 61-2g-102; and
  - (b) have demonstrated experience in appraising large rural properties.

**R850-80-700. Certificates of Sale.**

- (1) Following a public auction, ~~or~~ on concurrence of the parties in a negotiated sale, or after the board approves the sale of an Eligible Property to the Utah Department of Natural Resources, the director~~[agency]~~ shall prepare and deliver a certificate of sale to the purchaser. The certificate must contain:
  - (a) a legal description of the subject parcel;
  - (b) the purchase price and any pre-paid amounts;
  - (c) costs assessed by the director~~[agency]~~;
  - (d) financing terms, if applicable;
  - (e) the dates on which obligations must be met;
  - (f) the beneficiary of the subject parcel;
  - (g) remedies available to the agency on default by the purchaser, including forfeiture; and
  - (h) any other terms, covenants, deed restrictions, or conditions that the director~~[agency]~~ considers appropriate.
- (2) For trust lands purchased at an auction, the successful bidder must execute the certificate of sale within 30 days of receipt from the director~~[agency]~~. If the successful bidder fails to execute the certificate of sale within the 30-day period, the director~~[agency]~~ is not required to finalize the transaction and may retain the down payment and costs paid by the successful bidder at the auction.
- (3) The director~~[agency]~~ may terminate a negotiated sale or sale of an Eligible Property to the Utah Department of Natural Resources for any reason prior to finalization of the certificate of sale. If a negotiated sale is terminated by the proposed purchaser, the agency may retain the costs and fees paid pursuant to Subsection R850-80-620([4]6).
- (4) A certificate of sale is not final until the purchaser and the director or other authorized agency representative executes the certificate.
- (5) Except for sales to the Utah Department of Natural Resources made under Section R850-80-630, ~~[T]~~the purchaser under a certificate of sale may assign the certificate of sale to any person qualified to purchase trust lands. If the purchaser desires to assign the certificate prior to payment in full of the purchase price and all accrued interest, the purchaser must have the director's~~[agency's]~~ prior written consent to the assignment. The director~~[agency]~~ may require the assignee to execute a quitclaim deed, as required under Subsection R850-80-500([6]10), as a condition to consent to the assignment. An assignment of a certificate of sale must clearly identify the subject parcel, the certificate of sale number, the name and address of the assignee, and be executed by both the assignor and assignee.
- (6) Assignment of a certificate of sale does not relieve the assignor from any obligations arising prior to the date of assignment.
- (7) Within a reasonable time after payment in full of the amounts owing under a certificate of sale, the director~~[agency]~~ shall seek issuance of a patent from the governor or the governor's designee to the purchaser of the property.

**R850-80-750. Partial Releases.**

(1) The director may authorize a partial release of trust lands sold under a certificate of sale if in the director's sole determination it is in the best interest of the trust beneficiaries. In considering whether a partial release is in the best interest of the trust beneficiaries, the director may consider the following:

- (a) whether access to the remainder of the parcel is preserved without restriction;
- (b) whether utilities and infrastructure, including water, sewer and storm drains, electric power, and natural gas, installed on trust lands covered by the certificate have the capacity and capability to service the whole of the parcel;
- (c) whether the value of the remaining portion of the parcel is less than the remaining principal balance of the certificate; and
- (d) any other factor the director deems reasonable to preserve the value of the remainder of the parcel.

**KEY: administrative procedures, sales**

**Date of Last Change:** ~~2025~~~~[June 8, 2021]~~

**Notice of Continuation:** May 26, 2022

**Authorizing, and Implemented or Interpreted Law:** 53C-1-302(1)(a)(ii); 53C-2-201(1)(a); 53C-4-101(1); 53C-4-102; 53C-4-104; 53C-4-202(6); 63G-2-305; 72-5-203(1)(a)(i); 72-5-203(2)(a)

NOTICE OF SUBSTANTIVE CHANGE		
<b>TYPE OF FILING:</b> Amendment		
<b>Rule or section number:</b>	R850-170	<b>Filing ID:</b> 57338

Agency Information		
<b>1. Title catchline:</b>	School and Institutional Trust Lands, Administration	
<b>Building:</b>	102 Tower	
<b>Street address:</b>	102 S. 200 E., #600	
<b>City, state:</b>	Salt Lake City, UT	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chris Fausett	801-538-5139	chrisfausett@utah.gov
Lisa Wells	801-538-5154	lisawells@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

General Information	
<b>2. Rule or section catchline:</b>	
R850-170. Renewable Energy Lease Agreements	
<b>4. Purpose of the new rule or reason for the change:</b>	
The proposed rule amendment is made in response to a recommendation from the 2024 performance audit of the School and Institutional Trust Lands Administration (SITLA) by the Office of the Legislative Auditor General (OLAG) as stated in the Performance Audit of the School and Institutional Trust Lands Administration: Improving Controls, Accountability, and Proactive Management" (the "Audit"), dated August 20, 2024. The Legislative Audit, Recommendation 1.4: "The School and Institutional Trust Lands Administration should revise the Administrative Rules for Special Use Lease Agreements and Renewable Energy Lease Agreements to ensure that the criteria for setting lease rates are clear and consistent with Utah Code pertaining to the receipt of no less than fair market value for the lease of trust lands."	
<b>5. Summary of the new rule or change:</b>	
This amendment to Rule R850-170 clarifies that trust lands may not be leased for less than the fair market value of the leasehold as stated by the Legislative Audit, Recommendation 1.4.	

**Fiscal Information****6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A. State budget:**

The purpose of this amendment to the current rule is to clarify the rule language regarding the establishment of renewable energy lease rates to make it clear that trust lands may not be leased for less than the fair market value of the leasehold, pursuant to a recommendation in OLAG's recent performance audit of SITLA. Despite OLAG's finding that the current rule language is unclear, state statute clearly requires that SITLA obtain fair market value for the lease of trust lands. OLAG found no instances of SITLA lessees being charged less than fair market value for their leases. The amendment to the rule will not result in any changes to current lease processing or administration practices. It is not anticipated that there will be any additional costs or savings to the state budget because of the amended rule.

**B. Local governments:**

The purpose of this amendment to the current rule is to clarify the rule language regarding the establishment of renewable energy lease rates to make it clear that trust lands may not be leased for less than the fair market value of the leasehold, pursuant to a recommendation in OLAG's recent performance audit of SITLA. Despite OLAG's finding that the current rule language is unclear, state statute clearly requires that SITLA obtain fair market value for the lease of trust lands. Local governments occasionally lease trust lands for government purposes such as water storage tanks but do not typically lease trust lands for renewable energy purposes. OLAG found no instances of SITLA lessees being charged less than fair market value for their leases, therefore no adjustments to current lease rates will be required. It is not anticipated that the amended rule will result in any additional costs or savings to local governments.

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

The purpose of this amendment to the current rule is to clarify the rule language regarding the establishment of renewable energy lease rates to make it clear that trust lands may not be leased for less than the fair market value of the leasehold, pursuant to a recommendation in OLAG's recent performance audit of SITLA. Despite OLAG's finding that the current rule language is unclear, state statute clearly requires that SITLA obtain fair market value for the lease of trust lands. OLAG found no instances of SITLA lessees being charged less than fair market value for their leases. Small businesses may lease trust lands for renewable energy purposes. The current lease rates charged to small businesses will not be adjusted. There are no anticipated additional costs or savings to small businesses, including those who may hold SITLA leases, because of the amended rule.

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

The purpose of this amendment to the current rule is to clarify the rule language regarding the establishment of renewable energy lease rates to make it clear that trust lands may not be leased for less than the fair market value of the leasehold, pursuant to a recommendation in OLAG's recent performance audit of SITLA. Despite OLAG's finding that the current rule language is unclear, state statute clearly requires that SITLA obtain fair market value for the lease of trust lands. OLAG found no instances of SITLA lessees being charged less than fair market value for their leases. Non-small businesses may lease trust lands for a renewable energy purpose. No adjustments to current lease rates will be required. It is not anticipated that the amended rule will result in any costs or savings to non-small businesses, including those who may hold SITLA leases.

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

The purpose of this amendment to the current rule is to clarify the rule language regarding the establishment of renewable energy lease rates to make it clear that trust lands may not be leased for less than the fair market value of the leasehold, pursuant to a recommendation in OLAG's recent performance audit of SITLA. Despite OLAG's finding that the current rule language is unclear, state statute clearly requires that SITLA obtain fair market value for the lease of trust lands. OLAG found no instances of SITLA lessees being charged less than fair market value for their leases. Other persons, including individuals, may lease trust lands for renewable energy purposes. No adjustments to current lease rates will be required. It is not anticipated that the amended rule will result in any costs or savings to other persons, including those who may hold SITLA leases.

**F. Compliance costs for affected persons:**

The purpose of this amendment to the current rule is to clarify the rule language regarding the establishment of renewable energy lease rates to make it clear that trust lands may not be leased for less than the fair market value of the leasehold, pursuant to a recommendation in OLAG's recent performance audit of SITLA. Despite OLAG's finding that the current rule



language is unclear, state statute clearly requires that SITLA obtain fair market value for the lease of trust lands. This clarification to the rule does not materially change the way that SITLA conducts its renewable energy leasing program and will not impact any existing lease rates. No compliance costs are anticipated for any impacted entities.

**G. Regulatory Impact Summary Table** (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)

Regulatory Impact Summary Table					
Fiscal Cost	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Director of the School and Institutional Trust Lands Administration, Michelle McConkie, has reviewed and approved this regulatory impact analysis.

#### Citation Information

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

Subsection 53C-1-302(1)(a)	Subsection 53C-4-101(1)	Section 53C-4-202
28 Stat. 107-112, Utah Enabling Act of 1894, Sections 6, 8, 10, and 12	Utah Constitution Articles X and XX	

#### Public Notice Information

**9. The public may submit written or oral comments to the agency identified in box 1.**

<b>A. Comments will be accepted until:</b>	09/02/2025
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<b>10. This rule change MAY become effective on:</b>	09/09/2025
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

#### Agency Authorization Information

<b>Agency head or designee and title:</b>	Michelle McConkie, Director	<b>Date:</b>	07/14/2025
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**R850. School and Institutional Trust Lands, Administration.**

**R850-170. Renewable Energy Lease Agreements.**

**R850-170-100. Authorities.**

This rule implements Sections 6, 8, 10, and 12 of the Utah Enabling Act, Articles X and XX of the Utah Constitution, and Subsections 53C-1-302(1)(a)(ii) and 53C-4-101(1), which authorize the director to establish rules for leasing trust lands.

## NOTICES OF PROPOSED RULES

### **R850-170-150. Planning.**

- (1)[~~-~~] In addition to those other planning responsibilities described in [~~this~~]Rule R850-170, the director[~~agency~~] shall:
- (a) [~~S~~]submit proposals to lease trust lands for renewable energy projects to the Resource Development Coordinating Committee (RDCC) unless the proposal is exempt from [~~such~~]review;
- (b) [~~E~~]evaluate comments received through the RDCC process; and
- (c) [~~E~~]evaluate comments received through the request for proposal process pursuant to Section R850-170-600 or the solicitation process pursuant to Section R850-170-800.

### **R850-170-200. Exemption from Development Transaction Rules.**

The director may exempt renewable energy leases issued on Development Property as defined in Subsection R850-140-250(1) from Rule R850-140 if the renewable energy leases are issued according to [~~this~~]Rule R850-170 and if the exemption is consistent with the land management objectives found in Rule R850-2.

### **R850-170-300. Terms of Leases.**

Lease terms, including extensions, should not normally be for longer than 51 years. The director[~~agency~~] may issue leases for a term longer than 51 years if a longer term is consistent with the land management objectives found in Rule R850-2.

### **R850-170-400. Categories of Renewable Energy Leases.**

- (1)[~~-~~] Renewable energy leases are categorized as follows:
- (a) solar;
- (b) wind;
- (c) energy storage; and
- (d) geothermal.
- (2)[~~-~~] The director[~~agency~~] may grant exploration and options to lease the renewable resources on a parcel according to the requirements of [~~this~~]Rule R850-170 if doing so would encourage exploration of undefined resources.

### **R850-170-500. Other Business Arrangements.**

- (1)[~~-~~] The director[~~agency~~] may enter into other business arrangements (OBAs), such as joint venture agreements, that are consistent with the purposes of the Act.
- (2)[~~-~~] OBAs are exempt from [~~these~~]Rule R850-170[~~-rules~~].
- (3)[~~-~~] OBAs and any amendments to OBAs must be approved by the board[~~Board of Trustees~~].

### **R850-170-600. Requests for Proposals.**

- (1)[~~-~~] The director[~~agency~~] may issue a request for proposals (RFP) for renewable energy projects on trust lands.
- (2)[~~-~~] The director[~~agency~~] shall give notice of the RFP to lessees or permittees of record on the subject property and shall advertise the RFP by methods determined by the director[~~agency~~] to increase exposure of the subject property to qualified applicants.
- (3)[~~-~~] In response to the RFP, an applicant may propose a sale, lease, joint development, exchange, or other business arrangement.
- (4)[~~-~~] The director[~~agency~~] shall evaluate proposals using the following criteria:
- (a) income potential;
- (b) potential enhancement of trust lands;
- (c) development timeline;
- (d) applicant qualifications;
- (e) desirability of proposed use; and
- (f) any other criterion deemed appropriate by the director[~~agency~~].
- (5)[~~-~~] The director[~~agency~~] may charge non-refundable application and review fees, as specified in the RFP.
- (6)[~~-~~] Applicants selected in the RFP process are exempt from the application process in Section R850-170-800.

### **R850-170-700. Lease Rates.**

(1)[~~-~~] The [~~agency~~]director may not lease trust lands for less than the fair market value of the leasehold. The director shall base the fair market lease rates on either the market value or income producing capability of the subject property and may require any commercially reasonable type of consideration, including rent, percentage rent, use payments, impact charges, escalating charges, balloon payments, and in-lieu payments. The director[~~agency~~] may base lease rates on any of the following criteria, in combination or otherwise:

- (a) the market value of the subject property multiplied by the current agency-determined interest rate;
- (b) responses to RFPs, pursuant to Section R850-170-600, or solicitations for competing applications, pursuant to Section R850-170-800;
- (~~b~~)c) comparable lease data;
- (~~e~~)d) market value of the proposed use of the subject property;
- (~~d~~)e) rates schedules approved by the director; and
- (~~e~~)f) the administrative costs of leasing the subject property and a desired minimum rate of return.
- [~~\_\_\_\_\_~~2. The agency may base lease rates on a value other than the market value of the subject property if the director determines it is in the best interest of the beneficiaries and the agency has the right to terminate the lease before the end of the term.]
- (2)[~~3~~] Lease Review and Adjustment Procedures.

(a) The director[agency] shall review renewable energy leases periodically as specified in the lease agreement and may adjust lease rates, the amount of financial guaranty, the amount of required insurance, and other similar lease provisions to ensure the agency receives no less than fair market value for the subject property and is adequately protected against a lessee's breach. Periodic lease reviews should normally be no longer than every five years.

(b) The director[agency] may base lease rate adjustments on changes in market value including appreciation of the subject property, changes in established indices, or other methods that are appropriate and in the best interest of the trust beneficiaries.

(c) If the lease does not specify the rate of adjustment, the rate of adjustment will be based on the Consumer Price Index, published by the U.S. Bureau of Labor Statistics, All Urban Consumers, Western Region Average, All Items (1982-84 = 100), or if the Consumer Price Index is no longer published, a substitute index published by a governmental agency and comparable to the Consumer Price Index. The adjusted lease rate cannot be less than the lease rate for the immediately preceding review period.

(d) The director may suspend, defer, or waive lease adjustments in specific instances, based on a written finding that the suspension, deferral, or waiver is in the best interest of the trust beneficiaries.

#### **R850-170-800. Solicitation of Competing Applications.**

(1)[-] On acceptance by the director[agency] of a completed application, the director[agency] shall solicit competing interest in the subject parcel. The director may waive this requirement if it is in the best interest of the trust beneficiaries.

(2)[-] Renewable energy facilities to support extraction of the mineral estate of the subject property when the mineral estate is not a trust asset is exempt from the requirements of Section R850-170-800.

(3)[-] The director[agency] shall solicit competing interest in the subject parcel in a manner designed to increase exposure of the subject property to qualified applicants. The director[agency] may implement the solicitation through print media, internet, signage, direct mail, or other appropriate marketing methods. The director[agency] shall also give at least 30 days' notice by certified mail to:

(a) the legislative body of the county in which the subject parcel is located; and

(b) lessees or permittees of record on the subject property.

(4)[-] The notice of solicitation of competing interest must include:

(a) a general description of the subject parcel and a brief description of its location, including township, range, and section;

(b) the contact information of the agency office where interested parties can obtain more information; and

(c) any other information that may create interest in the subject parcel that does not violate the confidentiality of the initial application. The successful applicant is responsible for the cost of the advertising.

(5)[-] The director[agency] may solicit competing interests on trust lands when no application has been received by advertising a parcel pursuant to the process described in ~~this~~ Section R850-170-600 or any other means, when in the best interest of the trust beneficiaries.

(6)[-] In response to a solicitation, an applicant may propose a sale, lease, joint development, exchange, or other business arrangement.

#### **R850-170-900. Competing Proposals.**

(1)[-] If the agency receives credible competing proposals in response to the solicitation process conducted pursuant to Section R850-170-800, the director[agency] may select a proposal using the following methods:

(a) Sealed Bid Process.

(i) The director[agency] shall give the competing applicants notice setting forth the date on which the applicants must submit a final sealed proposal to the agency.

(ii) The director[agency] may reject proposals received after the established due date.

(iii) The director[agency] may require proposals for a lease to include the first year's rental, proposals for a sale to include a down payment on the proposed purchase price, and payments to cover the agency's costs of advertising and application fees.

(iv) The director[agency] shall evaluate proposals using the following criteria:

(A) income potential;

(B) potential enhancement of trust lands;

(C) development timeline;

(D) applicant qualifications;

(E) desirability of proposed use; and

(F) any other criterion deemed appropriate by the director[agency].

(b) The director[agency] may negotiate with the applicants or interested persons to create a proposal that best satisfies the objectives of Rule R850-2.

(2)[-] The director[agency] may terminate the application process at any time in its sole discretion.

#### **R850-170-1000. Lease Determination Procedures.**

The director[agency] may not lease trust lands when a lease:

(1)[-] would be inconsistent with board policy or would not be in the best interest of the trust beneficiaries;

(2)[-] would create significant obstacles to future mineral development; or

(3)[-] would foreclose future development or management options that would likely result in greater long[-]term economic benefit.

**R850-170-1100. Renewable Energy Lease Provisions.**

Each lease must contain provisions necessary to ensure responsible management of trust lands, including those provisions enumerated under Section 53C-4-202 and the following provisions:

- (1) the term of the lease;
- (2) the lease rate and other payments due to the agency;
- (3) reporting of technical and financial data;
- (4) reservation for mineral exploration and development and other compatible uses, unless waived by the director;
- (5) operation requirements;
- (6) lessee's consent to suit in any dispute arising under the terms of the lease or as a result of operations carried on under the lease;
- (7) procedures of notification;
- (8) transfers of lease interest by lessee;
- (9) terms and conditions of lease forfeiture; and
- (10) protection of the state from liability associated with the actions of the lessee on the subject property.

**R850-170-1200. Financial Guaranties.**

(1) The director[agency] may require a lessee to provide a financial guaranty to the agency to ensure compliance with lease terms including performance, payment, and reclamation. The financial guaranty must be in a form and in an amount acceptable to the director[agency].

(2) If a lessee assigns a lease, the director[agency] is not obligated to release the financial guaranty of the assignor until the assignee submits an equivalent replacement financial guaranty or any lease obligations, including reclamation, have been satisfied.

(3) The director[agency] may increase the amount of the financial guaranty in reasonable amounts at any time by giving lessee 30 days' written notice stating the increase and the reasons for the increase.

**R850-170-1300. Lease Assignments and Subleases.**

(1) Assignments.

(a) A lessee may only assign a renewable energy lease if the director[agency] consents to the assignment. Any assignment made without such approval is voidable at the director's[agency's] option.

(b) On the effective date of an assignment, the assignee is bound by the terms of the lease to the same extent as if the assignee were the original lessee, any conditions in the assignment to the contrary notwithstanding.

(c) An assignor must provide the director[agency] with a copy of the assignment document, which must be a sufficient legal instrument, properly executed, with the lease number, the land involved, the name and address of the assignee, and the interest transferred clearly indicated.

(d) As a condition of the approval of an assignment, the director[agency] shall require:

(i) the assignee to accept the most current applicable lease form unless continuation of the existing form is clearly in the best interests of the trust beneficiaries; and

(ii) the assignee be satisfactory to the director[agency].

(2) Subleases.

(a) A lessee may only sublease a renewable energy lease if the director[agency] consents to the sublease. A sublease made without such approval is voidable in the director's[agency's] discretion.

(b) The lessee must indemnify the agency for actions or inactions of the sublessee and the director[agency] may look to either the lessee or the sublessee for compliance with the lease.

(c) The director[agency] may require lessee and sublessee to provide annual financial documentation that clearly identifies the revenue generated on the property by sublessee and the revenue paid by sublessee to lessee.

(d) A lessee must provide the director[agency] with a copy of the sublease document, which must be a sufficient legal instrument, properly executed, with the lease number, the land involved, the name and address of the sublessee, and the interest subleased clearly indicated.

(e) The director[agency] may charge the lessee sublease rates based on the then current market rental value of the subject property, the revenue paid by sublessee to lessee, and such other factors as the director[agency] deems reasonable.

(f) Rather than approve the sublease, the director may require that the sublessee enter into a new lease with the agency for the subleased portion of the property.

**R850-170-1400. Lease Amendments.**

(1) The director[agency] may amend a lease if the amendment would be consistent with Rule R850-2. Unless waived by the director, the director[agency] shall solicit competing interest pursuant to Section R850-170-800 if:

(a) the total amended acreage exceeds 150% of the original acreage;

(b) the lease term, including any extensions, is longer than 51 years; or

(c) the proposed amended purpose of the lease is substantially different from the original purpose.

(2) The director[agency] may condition approval of an amendment on the lessee accepting the current lease form.

**KEY:** administrative procedures, leases, trust land management, request for proposals

**Date of Last Change:** 2025|August 8, 2022|

**Authorizing, and Implemented or Interpreted Law:** 53C-1-302(1)(a); 53C-4-101(1); 53C-4-202

### NOTICE OF SUBSTANTIVE CHANGE

**TYPE OF FILING:** Amendment

**Rule or section number:**

**R884-24P-66**

**Filing ID:** 57327

#### Agency Information

<b>1. Title catchline:</b>	Tax Commission, Property Tax	
<b>Building:</b>	Tax Commission	
<b>Street address:</b>	210 N 1950 W	
<b>City, state:</b>	Salt Lake City, Utah	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Chantay Asper	801-297-3901	casper@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

#### General Information

<b>2. Rule or section catchline:</b>	
R884-24P-66. County Board of Equalization Procedures and Appeals Pursuant to Utah Code Ann. Sections 59-2-516, 59-2-1001, and 59-2-1004	
<b>3. Are any changes in this filing because of state legislative action?</b>	Changes are because of legislative action.
<b>If yes, any bill number and session:</b>	HB 288 (2024 General Session)
<b>4. Purpose of the new rule or reason for the change:</b>	
This proposed rule amendment fulfills a requirement in 2024 HB 288, Rollback Tax Amendments, that the commission make rules to establish the circumstances under which a late filed appeal may be allowed to the county board of equalization of a county assessor's determination or denial under the Urban Farming Assessment Act.	
<b>5. Summary of the new rule or change:</b>	
Under current statute, an appeal must be filed within 60 days of a county assessor's determination or denial. The rule amendment allows an additional extension of up to 60 days if certain requirements are met. This rule amendment matches the extension period currently allowed for the Farmland Assessment Act under Section R884-24P-66.	

#### Fiscal Information

<b>6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A. State budget:</b>
This amendment is not expected to impact the state budget because any costs or savings would have been considered in the legislation requiring the commission to make rules to establish the circumstances under which a late filed appeal may be allowed to the county board of equalization of a county assessor's determination or denial under the Urban Farming Assessment Act.
<b>B. Local governments:</b>
This amendment is not expected to impact local government budgets because any costs or savings would have been considered in the legislation requiring the commission to make rules to establish the circumstances under which a late filed appeal may be allowed to the county board of equalization of a county assessor's determination or denial under the Urban Farming Assessment Act.

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

This amendment is not expected to impact small businesses because any costs or savings would have been considered in the legislation requiring the commission to make rules to establish the circumstances under which a late filed appeal may be allowed to the county board of equalization of a county assessor's determination or denial under the Urban Farming Assessment Act.

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

This amendment is not expected to impact non-small businesses because any costs or savings would have been considered in the legislation requiring the commission to make rules to establish the circumstances under which a late filed appeal may be allowed to the county board of equalization of a county assessor's determination or denial under the Urban Farming Assessment Act.

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

This amendment is not expected to impact persons other than small businesses, non-small businesses, state, or local governments because any costs or savings would have been considered in the legislation requiring the commission to make rules to establish the circumstances under which a late filed appeal may be allowed to the county board of equalization of a county assessor's determination or denial under the Urban Farming Assessment Act.

**F. Compliance costs for affected persons:**

This amendment is not expected to impose compliance costs on affected persons because any costs or savings would have been considered in the legislation requiring the commission to make rules to establish the circumstances under which a late filed appeal may be allowed to the county board of equalization of a county assessor's determination or denial under the Urban Farming Assessment Act.

**G. Regulatory Impact Summary Table** (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)

Regulatory Impact Summary Table					
Fiscal Cost	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

Commissioner of the Tax Commission Rebecca L. Rockwell has reviewed and approved this regulatory impact analysis.

**Citation Information**

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

Section 59-2-516	Section 59-2-1713	Section 59-2-1001
Section 59-2-1004		

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.**

**A. Comments will be accepted until:** 09/02/2025

**10. This rule change MAY become effective on:** 09/09/2025

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Rebecca Rockwell, Commissioner	<b>Date:</b>	07/10/2025
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**R884. Tax Commission, Property Tax.****R884-24P. Property Tax.****R884-24P-66. County Board of Equalization Procedures and Appeals Pursuant to Utah Code Ann. Sections 59-2-516, 59-2-1713, 59-2-1001, and 59-2-1004.**

(1) As used in this section:

(a) "Appeal period" means a time period that:

(i) begins on the date the valuation notice is mailed as required by Section 59-2-919.1; and

(ii) ends on the date a taxpayer is required to make an application to appeal the valuation or equalization of the taxpayer's real property in accordance with Subsection 59-2-1004(3).

(b)(i) "Factual error" means an error described in Subsection (1)(b)(ii):

(A) that is objectively verifiable without the exercise of discretion, opinion, or judgment;

(B) that is demonstrated by clear and convincing evidence; and

(C) the existence of which is recognized by the taxpayer and the county assessor.

(ii) Subject to Subsection (1)(b)(iii), "factual error" includes an error:

(A) that is a mistake in the description of the size, use, or ownership of a property;

(B) that is a clerical or typographical error in reporting or entering the data used to establish valuation or equalization;

(C) that is an error in the classification of a property that is eligible for a property tax exemption under Section 59-2-103;

(D) in valuing property that is not in existence on the lien date; or

(E) in assessing property more than once, or by the wrong assessing authority.

(iii) "Factual error" does not include:

(A) an alternative approach to value;

(B) a change in a factor or variable used in an approach to value;

(C) an adjustment to a valuation methodology; or

(D) an assertion of an error in the classification of property as residential property eligible to receive a residential exemption if:

(I) an application for the residential exemption is required under Section 59-2-103.5; and

(II) the application described in Subsection (1)(b)(iii)(D)(I) was not timely filed.

(2) To achieve standing with the county board of equalization and have a decision rendered on the merits of the case, the taxpayer shall provide the following minimum information to the county board of equalization:

(a) the name and address of the property owner;

(b) the identification number, location, and description of the property;

(c) the value placed on the property by the county assessor;

(d) the taxpayer's estimate of the fair market value of the property;

(e) evidence or documentation that supports the taxpayer's claim for relief; and

(f) the taxpayer's signature.

(3) If the evidence or documentation required under Subsection (2) is not attached, the county shall notify the taxpayer in writing of the defect in the claim and permit at least ten calendar days to cure the defect before dismissing the matter for lack of sufficient evidence to support the claim for relief.

(4) If a taxpayer appears before the county board of equalization and fails to produce the evidence or documentation described under Subsection (2) and the county has notified the taxpayer under Subsection (3), the county may dismiss the matter for lack of evidence to support a claim for relief.

## NOTICES OF PROPOSED RULES

(5) If the information required under Subsection (2) is supplied, the county board of equalization shall render a decision on the merits of the case.

(6)(a) The county board of equalization may dismiss an appeal for lack of jurisdiction if a taxpayer makes arguments that pertain only to issues that are not under the jurisdiction of the county board of equalization.

(b)(i) The county board of equalization may not dismiss an appeal for a party's failure to sign or return a stipulation.

(ii) A party's failure to sign or return a stipulation may not be considered by the board of equalization to be acceptance of the terms of the stipulation.

(7) The county board of equalization shall prepare and maintain a record of the appeal.

(a) For appeals concerning property value, the record shall include:

(i) the name and address of the property owner;

(ii) the identification number, location, and description of the property;

(iii) the value placed on the property by the county assessor;

(iv) the basis for appeal stated in the taxpayer's appeal;

(v) facts and issues raised in the hearing before the county board that are not clearly evident from the county assessor's records; and

(vi) the decision of the county board of equalization and the reasons for the decision.

(b) The record may be included in the minutes of the hearing before the county board of equalization.

(8)(a) The county board of equalization shall notify the taxpayer in writing of its decision.

(b) The notice required under Subsection (8)(a) shall include:

(i) the name and address of the property owner;

(ii) the identification number of the property;

(iii) the date the notice was sent;

(iv) a notice of appeal rights to the commission; and

(v) a statement of the decision of the county board of equalization; or

(vi) a copy of the decision of the county board of equalization.

(9) A county shall maintain a copy of a notice sent to a taxpayer under Subsection (8).

(10) If a decision affects the exempt status of a property, the county board of equalization shall prepare its decision in writing, stating the reasons and statutory basis for the decision.

(11)(a) A decision by a county board of equalization is a final order on the merits.

(b) An appeal of a county board of equalization decision under this Subsection (11) to the commission is as provided in Sections 59-2-1006 and R861-1A-9.

(12) Except as provided in Subsection (14), a county board of equalization shall accept an application to appeal the valuation or equalization of a property owner's real property that is filed after the last day of the appeal period if:

(a) the property owner was incapable of filing an appeal as a result of a medical emergency to the property owner or an immediate family member of the property owner during or within a reasonable time before the appeal period, and no co-owner of the property was capable of filing an appeal;

(b) the property owner or an immediate family member of the property owner died during or within a reasonable time before the appeal period, and no co-owner of the property was capable of filing an appeal;

(c) the county did not comply with the notification requirements of Section 59-2-919.1;

(d) a factual error is discovered in the county records pertaining to the subject property; or

(e) the property owner was unable to file an appeal within the appeal period because of extraordinary and unanticipated circumstances that occurred during or within a reasonable time before the appeal period and no co-owner of the property was capable of filing an appeal.

(13) A county board of equalization shall make a determination as to whether to accept an application to appeal the valuation or equalization of a property owner's real property that is filed after the last day of the appeal period.

(b) A county board of equalization shall prepare its decision in writing, stating the reasons and statutory basis for the decision.

(c) An appeal of a county board of equalization decision under this Subsection (13) to the commission is as provided in Sections 59-2-1006 and R861-1A-9.

(14) Appeals accepted under Subsection (12)(d) shall be limited to correction of the factual error and any resulting changes to the property's valuation.

(15) Subsection (12) applies only to appeals filed for a tax year for which the treasurer has not made a final annual settlement under Section 59-2-1365.

(16) A county board of equalization shall accept a property owner's application to appeal a county assessor's determination or denial under Title 59, Chapter 2, Part 5, Farmland Assessment Act, or Part 17, Urban Farming Assessment Act, that is filed no more than 60 days after the last day of the period described in Subsection 59-2-516(1) or Subsection 59-2-1713(1), in accordance with the same procedures and requirements of Subsections (12) through (14) for a valuation or equalization appeal.

**KEY: taxation, personal property, property tax, appraisals**

**Date of Last Change:** ~~January 1,~~ 2025

**Notice of Continuation:** November 9, 2021

**Authorizing, and Implemented or Interpreted Law:** Art. XIII, Sec 2; 9-2-201; 11-13-302; 41-1a-202; 41-1a-301; 59-1-210; 59-2-102; 59-2-103; 59-2-103.5; 59-2-104; 59-2-201; 59-2-210; 59-2-211; 59-2-301; 59-2-301.3; 59-2-302; 59-2-303; 59-2-303.1; 59-2-305; 59-2-306; 59-2-401; 59-2-402; 59-2-404; 59-2-405; 59-2-405.1; 59-2-406; 59-2-508; 59-2-514; 59-2-515; 59-2-701; 59-2-702; 59-2-703; 59-2-



704; 59-2-704.5; 59-2-705; 59-2-801; 59-2-918 through 59-2-924; 59-2-1002; 59-2-1004; 59-2-1005; 59-2-1006; 59-2-1101; 59-2-1102; 59-2-1104; 59-2-1106; 59-2-1107 through 59-2-1109; 59-2-1113; 59-2-1115; 59-2-1202; 59-2-1202(5); 59-2-1302; 59-2-1303; 59-2-1308.5; 59-2-1317; 59-2-1328; 59-2-1330; 59-2-1347; 59-2-1351; 59-2-1365; 59-2-1703

### NOTICE OF SUBSTANTIVE CHANGE

**TYPE OF FILING:** Amendment

**Rule or section number:**

**R920-60**

**Filing ID: 57324**

#### Agency Information

<b>1. Title catchline:</b>	Transportation, Operations, Traffic and Safety	
<b>Building:</b>	Calvin Rampton	
<b>Street address:</b>	4501 S. 2700 W.	
<b>City, state:</b>	Taylorsville, UT	
<b>Mailing address:</b>	P.O. Box 148455	
<b>City, state and zip:</b>	Salt Lake City, Utah 84114-8455	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Leif Elder	801-580-8296	lelder@utah.gov
Marlene Galindo	801-965-4026	mgalindo1@utah.gov
James Godin	801-573-7181	jamesjgodin@agutah.gov
Lori Edwards	385-341-3414	loriedwards@agutah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

#### General Information

<b>2. Rule or section catchline:</b>	
R920-60. Amusement Ride Safety	
<b>3. Are any changes in this filing because of state legislative action?</b>	Changes are because of legislative action.
<b>If yes, any bill number and session:</b>	SB 185 (2023 General Session)
<b>4. Purpose of the new rule or reason for the change:</b>	
SB 185 excluded "zip lines" from amusement safety rides and the changes in this proposed rule reflect that. The Department of Transportation (department) also wishes to edit this rule for clarity and to harmonize it with current rulewriting standards.	
<b>5. Summary of the new rule or change:</b>	
This rule removes any references to "zip lines," updates references to the ASTM standards applicable to amusement safety rides, and adds a provision related to agency actions related to enforcement.	

#### Fiscal Information

<b>6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A. State budget:</b>
There are no fiscal impacts to the state budget because this rule is clerical in nature—it makes the references to the ASTM standards more specific and nothing changes with regards to amusement ride safety inspections.
<b>B. Local governments:</b>
There are no fiscal impacts to local governments because this rule is clerical in nature—it makes the references to the ASTM standards more specific and nothing changes with regards to amusement ride safety inspections.

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

There are no fiscal impacts to small businesses because this rule is clerical in nature—it makes the references to the ASTM standards more specific and nothing changes with regards to amusement ride safety inspections.

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

There are no fiscal impacts to non-small businesses because this rule is clerical in nature—it makes the references to the ASTM standards more specific and nothing changes with regards to amusement ride safety inspections.

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

There are no fiscal impacts to persons because this rule is clerical in nature—it makes the references to the ASTM standards more specific and nothing changes with regards to amusement ride safety inspections.

**F. Compliance costs for affected persons:**

It will not cost an affected person anything to comply with this rule—it makes the references to the ASTM standards more specific and nothing changes with regards to amusement ride safety inspections.

**G. Regulatory Impact Summary Table** (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)

Regulatory Impact Summary Table					
Fiscal Cost	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Executive Director of the Department of Transportation, Carlos M. Bracerias, P.E., has reviewed and approved this regulatory impact analysis.

**Citation Information****7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 72-16-203

**Incorporation by Reference Information****8. Incorporation by Reference :**

**A. This rule adds or updates the following title of material incorporated by reference** (a copy of the material incorporated by reference must be submitted to the Office of Administrative Rules. *If none, leave blank*):

<b>Official Title of Materials Incorporated (from title page)</b>	Standard Practice for Ownership, Operation, Maintenance, and Inspection of Amusement Rides and Devices
<b>Publisher</b>	ASTM International
<b>Issue Date</b>	May 2024
<b>Issue or Version</b>	F770-24

**B. This rule adds or updates the following title of material incorporated by reference** (a copy of the material incorporated by reference must be submitted to the Office of Administrative Rules. *If none, leave blank*):

<b>Official Title of Materials Incorporated (from title page)</b>	Standard Practice for Design, Manufacture, and Operation of Concession GoKarts and Facilities
<b>Publisher</b>	ASTM International
<b>Issue Date</b>	June 2024
<b>Issue or Version</b>	F2007-24

**C. This rule adds or updates the following title of material incorporated by reference** (a copy of the material incorporated by reference must be submitted to the Office of Administrative Rules. *If none, leave blank*):

<b>Official Title of Materials Incorporated (from title page)</b>	Standard Practice for Special Requirements for Bumper Boats
<b>Publisher</b>	ASTM International
<b>Issue Date</b>	November 2019
<b>Issue or Version</b>	F2460-19

**D. This rule adds or updates the following title of material incorporated by reference** (a copy of the material incorporated by reference must be submitted to the Office of Administrative Rules. *If none, leave blank*):

<b>Official Title of Materials Incorporated (from title page)</b>	Standard Practice for Permanent Amusement Railway Ride Tracks and Related Devices
<b>Publisher</b>	ASTM International
<b>Issue Date</b>	July 2023
<b>Issue or Version</b>	F2960-23

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.**

**A. Comments will be accepted until:** 09/02/2025

**10. This rule change MAY become effective on:** 09/09/2025

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

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Carlos M. Bracerias, P.E., Executive Director, UDOT	<b>Date:</b>	07/02/2025
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**R920. Transportation, Operations, Traffic and Safety.**

**R920-60. Amusement Ride Safety.**

**R920-60-1. Purpose.**

This rule establishes standards for the inspection and operation of amusement rides operated in Utah in the interest and safety of the public. This rule also provides a permitting process for amusement rides, a certification process for qualified safety inspectors, and implementation of powers and duties of the Utah Amusement Ride Safety Committee and its director.

**R920-60-2. Authority.**

This rule is authorized by Section 72-16-203 ~~[to implement Title 72, Chapter 16, Amusement Ride Safety Act]~~ and Section 72-16-304.

**R920-60-3. Scope.**

(1) This rule ~~[shall apply]~~ applies to ~~[all]~~ each amusement ride~~[s]~~ operated in Utah ~~[and owned or operated by any individual, corporation, company, firm, partnership, association, or state or local government agency].~~

(2) This rule ~~[shall]~~ does not apply to:

(a) a coin-operated amusement ride that:

(i) is manually, mechanically, or electrically operated;

(ii) is customarily placed in a public location; and

(iii) does not typically require the supervision or services of an operator;

(b) playground equipment including swings, seesaws, stationary spring-mounted animal features, rider-propelled merry-go-rounds, climbers, slides, swing sets, and physical fitness devices;

(c) a live animal ride or live animal show;

(d) a challenge, exercise, or obstacle course, including competitive events and participant-propelled aerial adventure courses, ziplines, and ropes courses;

(e) a trampoline;

(f) an inflatable device;

(g) a water-based recreational attraction ~~[where]~~ when complete or partial immersion is intended, including a water slide, wave pool, or water park;

(h) a race-kart designed for the sole purpose of racing on a track, street, or another area of competition, and not to be used by the public in an amusement facility setting;

(i) a skating rink, arcade, laser paintball game, bowling alley, miniature golf course, ball crawl, an item of exercise equipment, jet ski, paddleboat, airboat, hot air balloon, whether tethered or untethered, batting cage, game, and sideshow;

(j) an amusement ride operated at a private event that is not open to the public and not subject to a separate admission charge, or any amusement ride owned and operated by a non-profit organization that meets ~~[all]~~ each of the requirements in this rule and operates their amusement rides less than eight days in any calendar year;

(k) a passenger ropeway as defined in Section 72-11-102;

(l) a tractor ride and wagon ride; or

(m) a -motion seat in a movie theater for which the manufacturer does not require a restraint.

**R920-60-4. Definitions.**

In addition to terms defined in Section 72-16-102, the following terms are defined as follows:

~~[(1)]~~ ~~"ACCT" means the Association for Challenge Course Technology.~~

~~[(2)]~~ (1) "Aerial Adventure Course" means a patron participatory facility or facilities consisting of one or more elevated walkways, platforms, zip lines, nets, ropes, or other elements that require the use of fall hazard personal safety equipment (PSE). Aerial adventure courses are typically referred to as ropes courses, free fall devices, and zip lines in this rule.

~~[(3)]~~ (2) "AIMS International" means Amusement Industry Manufacturers and Suppliers International.

~~[(4)]~~ (3) "Amusement Ride" means a device or combination of devices or elements that carries or conveys one or more riders along, around, or over a fixed or restricted route or course or allows the riders to steer or guide the device within an established area to give the riders amusement, pleasure, thrills, or excitement.

~~[(5)]~~ (4) "Amusement Ride, Kiddie Ride" means an amusement ride designed primarily for children up to 12 years of age.

~~[(6)]~~ (5) "Amusement Ride, Non-Kiddie Ride" means an amusement ride not defined as a kiddie ride amusement ride.

~~[(7)]~~ (6) "Annual Permit" means the amusement ride operating permit issued for a permanent amusement ride or a mobile amusement ride and is issued by the director and is valid for ~~[a period of]~~ one year.

(7) "ASTM" means ASTM International, formerly known as American Society for Testing and Materials.

(8) "Certificate of Inspection" means the documentation of an amusement ride inspection conducted by a qualified safety inspector.

(9) "Concession Go-Karts" means a single-vehicle that is powered without connection to a common energy source, which is driver-controlled for acceleration, speed, braking, and steering, which operates within the containment system of a defined track, which simulates competitive motorsports, and which is used by the public. ~~[-Concession go-karts typically operate at speeds of up to 25 miles per hour.]~~

(10) "Director" means the director of the Amusement Ride Safety Committee, facilitated by the Utah Department of Transportation, or a designee thereof, which may include an employee of the ~~[department of transportation]~~ Utah Department of Transportation or another person.

(11) "Inspection for Annual Permit" means a procedure to be conducted before applying for an annual permit, or at the time of a major modification, by a qualified safety inspector to determine whether an amusement ride complies with the standards under this rule.

(12) "Inspection, Daily" means a procedure to be performed and recorded by the owner-operator of an amusement ride, or the operator's designee, on days the amusement ride will be operated for the public that confirms the current operational safety of the amusement ride following this rule and the manufacturer's recommendations, as applicable.

(13) "Major Modification" means any change in either the structural or operational characteristics of the amusement ride that will alter its performance from that specified in the manufacturer's design criteria.

(14) "Mobile Amusement Ride" means an amusement ride that is:

- (a) designed or adapted to be moved from one location to another;
- (b) not fixed at a single location; and
- (c) relocated at least once each calendar year.

(15) "Multi Ride Annual Permit" means the amusement ride operating permit issued for multiple rides at an amusement park that employs more than 1,000 individuals in a calendar year and is issued by the director and is valid for a period of one year.

(16) "NAARSO" means National Association of Amusement Ride Safety Officials.

(17) "Operator" means an individual who controls the starting, stopping, or speed of an amusement ride.

(18) "Owner-Operator" means an individual who has control over and responsibility for the maintenance, setup, inspection, and operation of an amusement ride.

(19) "Permanent Amusement Ride" means an amusement ride that is not a mobile amusement ride.

(20) "Qualified Safety Inspector" means an individual who holds a valid qualified Utah safety inspector certification.

(21) "Race-Karts" means go-karts designed for the sole purpose of racing on tracks, streets, or other areas of competition, and not to be used by the public in an amusement facility setting.

(22) "Reportable Serious Injury" means an injury to a rider that:

- (a) occurs ~~when~~ if there is a failure or malfunction of an amusement ride; and
- (b) results in death, dismemberment, permanent disfigurement, permanent loss of the use of a body organ, member, function, or system, or a compound fracture.

(23) "Serious Injury" means an injury to a rider that:

- (a) occurs ~~when~~ if there is a failure or malfunction of an amusement ride; and
- (b) requires immediate admission to a hospital and overnight hospitalization and observation by a licensed physician.

~~(24) "Zip Line" means an aerial adventure course element over an open span consisting of an inclined wire or fiber rope on which a harnessed patron suspended from a pulley or trolley traverses with the primary force for propulsion being gravity.~~

#### **R920-60-5. General Requirements for Amusement Rides.**

(1) General Requirements for Amusement Ride Operation. Beginning on April 1, ~~[2022]~~2023, a person may not operate an amusement ride in the state that is open to the public until they meet the following general requirements:

- (a) apply for and receive a valid permit to operate an amusement ride in the state;
- (b) to apply for a permit, provide certification of an inspection completed following Section R920-60-8 for each inspection conducted by a qualified safety inspector;
- (c) report serious injuries as required by statute and rule;
- (d) not operate a mobile amusement ride after a reportable serious injury until authorized by the director;
- (e) maintain insurance on amusement rides as required by statute and rule; and
- (f) conduct daily inspections and maintain documentation for daily inspections for one year.

~~[(2) General requirements for qualified safety inspectors:~~

- ~~(a) become certified by the director as a qualified safety inspector;~~
- ~~(b) as a qualified safety inspector, conduct inspections following this rule; and~~
- ~~(c) as a qualified safety inspectors, maintain insurance as required by this rule.~~
- ~~(3) The Amusement Ride Safety Committee incorporates by reference the following STM International standards:~~
  - ~~(a) F770-22 Standard Practice for Ownership, Operation, Maintenance, and Inspection of Amusement Rides and Devices;~~
  - ~~(b) F2959-22 Standard Practice for Aerial Adventure Courses; and~~
  - ~~(c) F3054-18 Standard Practice for Operations of Amusement Railway Rides, Devices, and Facilities.]~~

~~(2) The Department incorporates by reference the following ASTM standards into this rule:~~

~~(a) The following sections of F770-24 Standard Practice for Ownership, Operation, Maintenance, and Inspection of Amusement Rides and Devices (Apr. 25, 2025):~~

- ~~(i) Section 5. Owner-Operator's Responsibility;~~
- ~~(ii) Section 6. Operations Program Requirements;~~
- ~~(iii) Section 7. Maintenance Program Requirements;~~
- ~~(iv) Section 8. Inspection Program Requirements; and~~
- ~~(v) Section 9. Training Program Requirements.~~

~~(b) Section 7. Concession Go-Kart Facility Operations of F2007-24 Standard Practice for Design, Manufacture, and Operation of Concession Go-Karts and Facilities (Apr. 25, 2025);~~

~~(c) Section 5. Ownership, Operation, Maintenance, Inspection, and Training Requirements of F2460-19 Standard Practice for Special Requirements for Bumper Boats (Sept. 26 2023); and~~

~~(d) F2960-23 Standard Practice for Permanent Amusement Railwide Ride Tracks and Related Devices (July 19, 2023).~~

**R920-60-6. Application for Annual Permit.**

(1) To obtain or renew an annual permit or multi-ride annual permit, the owner-operator shall submit an application to the director that contains the following information:

~~[(4)](a)~~ Annual Permit for Mobile Amusement Ride. The owner-operator shall submit an application to the director that contains the following information and is in a form prescribed by the director:

- ~~[(a)](i)~~ the owner-operator's name and address;
- ~~[(b)](ii)~~ a description of the mobile amusement ride, including the manufacturer's name, serial number, and model number;
- ~~[(c)](iii)~~ each known location in the state where the owner-operator intends to operate the mobile amusement ride during the 12-month period for which the annual permit is valid;
- ~~[(d)](iv)~~ the name and contact information of the fair, show, landlord, or property owner for each location of operation;
- ~~[(e)](v)~~ the dates on which the owner-operator intends to set up the mobile amusement ride at each location;
- ~~[(f)](vi)~~ the dates on which the owner-operator intends to operate the mobile amusement ride for use by the public at each location listed;

- ~~[(g)](vii)~~ proof of compliance with insurance requirements as described in Subsection R920-60-6(6);
- ~~[(h)](vii)~~ a safety inspection certification in a form approved by the director, signed by a qualified safety inspector, dated no more than 30 days before the day on which the owner-operator submits the application for an annual permit; and
- ~~[(i)](viii)~~ a fee established by the committee.

(2) Owner-operators of mobile amusement rides shall update the information described in Subsection R920-60-6(1)~~[(e)](a)(iii)~~ if the owner-operator learns of a new location where the owner-operator intends to operate the mobile amusement ride. A mobile amusement ride ~~shall~~ may not be operated unless the owner-operator includes the location of the ride:

- (a) in the owner-operator's application or renewal for an annual permit; or
- (b) in an update that the owner-operator submits to the director at least 30 days before the day on which the owner-operator sets up the mobile amusement ride at the location.

(3) Annual Permit for Permanent Amusement Ride. The owner-operator shall submit an application to the director that contains the following and is in a form prescribed by the director:

- (a) the owner-operator's name and address;
- (b) a description of the permanent amusement ride, including the manufacturer's name, serial number, and model number;
- (c) the location in the state where the owner-operator will operate the permanent amusement ride;
- (d) the first date on which the owner-operator intends to operate the permanent amusement ride for use by the public;
- (e) proof of compliance with insurance requirements as described in Subsection R920-60-6(6) -Insurance;
- (f) a safety inspection certification in a form approved by the director, signed by a qualified safety inspector dated no more than 30 days before the day on which the owner-operator applies for an annual permit; and
- (g) a fee established by the committee.

(4) Multi Ride Annual Permit. For each amusement ride located at an amusement park that employs more than 1,000 individuals in a calendar year, the owner-operator shall submit an application to the director that contains the following and is in a form prescribed by the director:

- (a) the amusement park's name and address;
- (b) a list of each amusement ride located at the amusement park, including a description of each amusement ride;
- (c) the first date on which the owner-operator intends to operate the permanent amusement ride for use by the public;
- (d) proof of compliance with insurance requirements as described in Subsection R920-60-6(6) Insurance;
- (e) safety inspection certification in a form approved by the director, signed by a qualified safety inspector dated no more than 30 days before the day on which the owner-operator submits the application for an annual permit; and
- (f) a fee established by the committee.

(5) Permit Fees.

(a) Annual Permit:

- (i) Kiddie Ride:- \$100~~[-.00]~~; or
- (ii) Non-Kiddie Ride:- \$100~~[-.00]~~.

(b) Multi-Ride Annual Permit. For each amusement ride located at an amusement park that employs more than 1,000 individuals in a calendar year:

- (i) Kiddie Ride: -\$100~~[-.00]~~; or
- (ii) Non-Kiddie Ride: -\$100~~[-.00]~~.

(6) Insurance. Amusement ride owner-operators shall be covered by liability insurance in not less than the following minimum amounts:

- (a) Owner-operators with 1,000 employees or fewer:
  - (i) \$1,000,000 for bodily injury per occurrence;
  - (ii) \$250,000 for property damage per occurrence; and
  - (iii) \$3,000,000 annual aggregate limit.
- (b) Owner-operators with more than 1,000 employees:
  - (i) \$5,000,000 for bodily injury per occurrence;
  - (ii) \$1,000,000 for property damage per occurrence; and
  - (iii) \$10,000,000 annual aggregate limit.

(c) An owner-operator or amusement park must maintain proof of insurance covering each amusement ride and make the documentation available to the director upon request.

(7) Issuance of Annual Permit. If the director provides written notice of deficiency in the application, the director will provide the annual permit or a written denial within a reasonable amount of time.

#### **R920-60-7. Safety Inspection Certification.**

(1) Daily Inspection. Each day an amusement ride is to be operated for the public, the owner-operator, or the owner-operator's designee, shall conduct a daily documented and signed pre-opening inspection, based upon provided instructions, to verify the proper operation of the amusement ride. Daily pre-opening inspections shall be consistent with the inspection program requirements outlined in practices ASTM F770-22 Sections 7.1 and 7.2, or the other applicable standards in Section R920-60-9. A record of each daily inspection shall be maintained for at least one year after the day on which the inspection is performed.

(2) Inspection for Annual Permit Application. Each amusement ride intending to operate in the state must be inspected by a qualified safety inspector no more than 30 days before the submittal of the application for an Annual Permit in the state. Upon successfully completing the inspection, the qualified safety inspector shall provide the owner-operator with a certificate of inspection in a form approved by the director for submission with the application for an annual permit.

#### **R920-60-8. Qualified Safety Inspector Requirements.**

(1) Certification Requirements. To obtain a qualified safety inspector certification from the director, the applicant shall submit an application and fee as established by the committee, ~~that~~ which must include the following information that demonstrates the applicant:

(a)(i) is a professional engineer, licensed under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act~~;~~ or

~~(ii)(A) is an engineer with a comparable license from another state as determined by the committee; and~~

~~(B) has at least three years of experience in the amusement ride industry, at least two of which include [actual] inspection of amusement rides for an owner-operator, manufacturer, government agency, amusement park, carnival, or insurer; or~~

~~(b)(i) has at least three years of experience inspecting amusement rides for an owner-operator, manufacturer, government agency, amusement park, carnival, or insurer; and~~

~~(ii) has obtained and maintains at least a current Level II NAARSO, Level II or AIMS international certification~~[-or an ACCT Level II Professional Inspector, which shall only be accepted for zip line inspections]; or~~~~

~~(c)(i) has at least three years of experience inspecting amusement rides for an owner-operator, manufacturer, government agency, amusement park, carnival, or insurer; and~~

~~(ii) is a member of and actively participates in an entity that develops standards applicable to the operation of amusement rides; and~~;~~~~

~~(iii)(A) is employed by an amusement park that employs more than 1,000 individuals in a calendar year; or~~

~~(B) the individual is an employee or authorized agent of an insurance company.~~

(2) The director may deny, suspend, or revoke a qualified safety inspector certification if an individual fails to satisfy a requirement of this rule.

(3) A qualified safety inspector shall pay the following Registration Fees:

(a) initial application fee~~[-] of \$50[-.00]; or~~

(b) renewal fee, every two years~~[-] of \$40[-.00].~~

(4) A qualified safety inspector shall:

(a) maintain insurance in not less than the following minimum amounts:

(i) \$1,000,000 bodily injury;

(ii) \$250,000 property damage; and

(iii) \$2,000,000 aggregate; and

(b) maintain proof of insurance and make the documentation available to the director upon request.

(5) Certification Renewal. To obtain a renewal of a qualified safety inspector certification, a qualified safety inspector shall submit to the director a fee established by the committee and a renewal application that demonstrates that the qualified safety inspector:

(a) satisfies the requirements described in Subsection R920-60-8(1)~~[-1 of this section]; and~~

(b) during the previous two-year period, completed at least 12 hours of continuing education instruction provided by:

(i) a nationally recognized amusement industry organization;

(ii) a nationally recognized organization in a relevant technical field;

(iii) an owner-operator, through an owner-operator-run safety program approved by the committee; or

(iv) an amusement park that employs more than 1,000 individuals in a calendar year.

(6) Certification Issuance. The director shall issue a qualified safety inspector certification to each individual who submits an application or a renewal application in a form prescribed by the director and complies with the requirements of this section and any applicable rules and fees.

(7) Certification expiration. A qualified safety inspector certification expires two years after the day on which the director issues the qualified inspector certification.

(8) Suspension or Revocation of Certification. ~~[Notification of Suspension.]~~ The director shall notify a qualified safety inspector of the suspension of a certification. The director may suspend the certification of a qualified safety inspector with intent to revoke for the following reasons:

## NOTICES OF PROPOSED RULES

- (a) ~~[The]~~the qualified safety inspector has been convicted of or entered a plea of guilty or no contest to a crime related to the performance of amusement ride safety inspections in any court in the United States~~[-];~~;
- (b) ~~[The]~~the qualified safety inspector has engaged in criminal conduct~~[to conduct constituting a crime]~~ related to the performance of an amusement ride safety inspection~~[-];~~;
- (c) ~~[The]~~the qualified safety inspector has ~~[falsified information or submitted a deceptive or fraudulent statement or document connected with certification as a qualified safety inspector or inspection of an amusement ride]~~engaged in criminal conduct related to the performance of an amusement ride safety inspection~~[-];~~;
- (d) ~~[The]~~the qualified safety inspector has demonstrated willful wrongdoing that reflects a lack of integrity in certification as a qualified safety inspector or Inspection of an amusement ride~~[-];~~;
- (e) ~~[The]~~the qualified safety inspector has been suspended as a qualified safety inspector in another state~~[-];~~;
- (f) The qualified safety inspector has performed previous or current work in an unsatisfactory manner as determined by the director~~[-];~~;
- (g) ~~[Failure]~~failure of the qualified safety inspector to observe the owner or operator of an amusement ride facility's safety practices and policies~~[-]; and~~
- (h) ~~[The]~~the director reasonably believes and finds that the public health, welfare, or safety requires suspension.
- (9) The qualified safety inspector may not perform inspections of amusement rides during a suspension of their certification.
- (10) Right to Appeal. Upon notification of suspension, the qualified safety inspector has 30 days to appeal to the director. The director will promptly schedule a hearing with the Amusement Ride Safety Committee to hear the appeal. The committee may choose to uphold the suspension and revoke the certificate or return the qualified safety inspector to good standing. The committee shall determine the length of the revocation and notify the qualified safety inspector in writing. If the qualified safety inspector chooses not to appeal within the stated time frame, the director may issue the certificate's written revocation.

### **~~[R920-60-9. Amusement Ride Operating Requirements and Governing Standards.~~**

- ~~(1) The operation of an amusement ride in the state shall comply with the following applicable sections of the ASTM F 24 standards:~~
- ~~(a) F770 22 Standard Practice for the Ownership, Operation, Maintenance, and Inspection of Amusement Rides and Devices:~~
- ~~(i) Section 4. Owner Operator's Responsibility;~~
- ~~(ii) Section 5. Operations Program Requirements;~~
- ~~(iii) Section 6. Maintenance Program Requirements;~~
- ~~(iv) Section 7. Inspection Program Requirements; and~~
- ~~(v) Section 8. Training Program Requirements;~~
- ~~(b) F2007 18 Standard Practice for Design, Manufacture, and Operation of Concession Go-Karts and Facilities, Section 7. Concession Go-Kart Facility Operations;~~
- ~~(c) F2460 19 Standard Practice for Special Requirements for Bumper Boats:~~
- ~~(i) Section 6. Ownership and Operation Requirements;~~
- ~~(ii) Section 7. Operational Requirements; and~~
- ~~(iii) Section 8. Maintenance Requirements;~~
- ~~(d) F2959 22 Standard Practice for Aerial Adventure Courses, Section 5. Ownership, Operation, Maintenance, Inspection, and Training Requirements; and~~
- ~~(e) F3054 18 Standard Practice for Operations of Amusement Railway Rides, Devices, and Facilities.]~~

### **R920-60-~~[40]~~2. Rider Responsibility.**

Section 78B-4-507 governs rider responsibility.

### **R920-60-~~[44]~~10. Reporting of Injuries.**

- (1) Reporting of Injuries. As defined in Section 72-16-102, every reportable serious injury must be reported to the director within eight hours after the owner-operator learns of the reportable serious injury. The report to the director must include the following information:
- (a) the owner-operator's name and contact information;
- (b) the location of the amusement ride ~~[when]~~if reportable serious injury occurred;
- (c) a description of the amusement ride;
- (d) a description of the nature of the reportable serious injury; and
- (e) other information required by this rule.
- (2) In addition to the report to the director required by Subsection R920-60-~~[44]~~10(1), an owner-operator of a mobile amusement ride shall report each known reportable serious injury and serious injury to the fair, show, landlord, or owner of the property upon which the mobile amusement ride was located when reportable serious injury or serious injury occurred.
- (3) After a reportable serious injury, the owner-operator may not operate the mobile amusement ride until the owner-operator receives written authorization from the director.

### **R920-60-~~[42]~~11. Modification of an Amusement Ride.**

- (1) The owner-operator shall inform the qualified safety inspector at the time of the inspection if an amusement ride has undergone a major modification.



(2) The qualified safety inspector shall ~~[indicate]~~state on the certificate of inspection if an amusement ride has undergone a major modification.

**R920-60-~~143~~12. Penalty for Violation.**

- (1) If an owner-operator or operator violates this rule concerning an amusement ride, the director may:
- (a) deny, suspend, or revoke, in whole or in part, the owner-operator's annual amusement ride permit or multi-ride permit for the amusement ride;
  - (b) impose fines or administrative penalties per this rule; or
  - (c) both.
- (2) The director may file an action in district court to enjoin the operation of an amusement ride if the director finds that an owner-operator has violated this rule.
- (3) If the director finds an owner-operator has violated this rule, the director may issue a citation according to the following schedule, maximum by type of violation:
- (a) Operating an amusement ride without a current permit, the director may issue a citation per violation, per amusement ride, per day of:
    - (i) ~~[1st Offense:-]~~for a first offense, \$500[-.00]; or
    - (ii) ~~[2nd Offense:-]~~for a second offense, \$1,000[-.00].
  - (b) Owner-operator fails to notify the director of intent to operate within the state;
    - (i) ~~[1st Offense:-]~~for a first offense, \$500[-.00]; or
    - (ii) ~~[2nd Offense:-]~~for a second offense, \$1,000[-.00].
  - (c) Operating an amusement ride without proper liability insurance, the director may issue a citation per violation, per amusement ride, per day of:
    - (i) ~~[1st Offense:-]~~for a first offense, \$500[-.00]; or
    - (ii) ~~[2nd Offense:-]~~for a second offense, \$1,000[-.00].
  - (d) Operating an amusement ride without current safety inspection certification, the director may issue a citation per violation, per amusement ride, per day of:
    - (i) ~~[1st Offense:-]~~for a first offense, \$500[-.00]; or
    - (ii) ~~[2nd Offense:-]~~for a second offense, \$1,000[-.00].
  - (e) Operating an amusement ride in violation of a cease-and-desist order, the director may issue a citation per violation, per amusement ride, per day of:
    - (i) ~~[1st Offense:-]~~for a first offense, \$1,000[-.00]; or
    - (ii) ~~[2nd Offense:-]~~for a second offense, \$2,500[-.00].
  - (f) Failing to report a reportable injury to the director within eight hours after the owner-operator learns of the reportable serious injury, the director may issue a citation per violation, per amusement ride, per day of;
    - (i) ~~[1st Offense:-]~~for a first offense, \$1,000[-.00]; or
    - (ii) ~~[2nd Offense:-]~~for a second offense, \$1,500[-.00].
  - (g) Operating an amusement ride by an unqualified person, the director may issue a citation per violation, per amusement ride, per day of:
    - (i) ~~[1st Offense:-]~~for a first offense, \$500[-.00]; or
    - (ii) ~~[2nd Offense:-]~~for a second offense, \$1,000[-.00].
  - (h) Failing to maintain records of an amusement ride following this rule:
    - (i) ~~[1st Offense:-]~~for a first offense, \$500[-.00]; or
    - (ii) ~~[2nd Offense:-]~~for a second offense, \$1,000[-.00].
  - (i) Failing to report a serious physical injury to a fair, show, landlord, or property owner, the director may issue a citation per violation, per amusement ride, per day of:
    - (i) ~~[1st Offense:-]~~for a first offense, \$500[-.00]; or
    - (ii) ~~[2nd Offense:-]~~for a second offense, \$750[-.00].
  - (j) Failing to update operation locations with the director before operating, the director may issue a citation per violation, per amusement ride, per day of:
    - (i) ~~[1st Offense:-]~~for a first offense, \$250[-.00]; or
    - (ii) ~~[2nd Offense:-]~~for a second offense, \$500[-.00].
  - (k) Falsifying an application to the director:
    - (i) ~~[1st Offense:-]~~for a first offense, \$1,000[-.00]; or
    - (ii) ~~[2nd Offense:-]~~for a second offense, \$1,500[-.00].
  - (l) Denying the director access to an amusement ride:
    - (i) ~~[1st Offense:-]~~for a first offense, \$1,000[-.00]; or
    - (ii) ~~[2nd Offense:-]~~for a second offense, \$1,500[-.00].
  - (m) Other violations of Title 72, Chapter 16, Amusement Ride Safety Act or this rule not listed:
    - (i) ~~[1st Offense:-]~~for a first offense, Warning; or
    - (ii) ~~[2nd Offense:-]~~for a second offense, \$250[-.00].
- (4) The director will not renew an annual permit if the owner-operator has unresolved outstanding violations or unpaid fines.

# NOTICES OF PROPOSED RULES

## **R920-60-13. Right to Appeal.**

(1) In the event of a penalty for a violation under Section R920-60-12, the Department shall issue a notice of agency action to the owner-operator in accordance with Section R907-1-4.

(2) The Department, including the Amusement Ride Safety Committee, and the owner-operator shall follow the procedures set forth in Rule R907-1 Agency Actions, Administrative Procedures to initiate, conduct, review, and appeal agency actions.

**KEY:** transportation safety, amusement ride, amusement ride permit, amusement ride penalty

**Date of Last Change:** ~~March 7, 2023~~ **2025**

**Authorizing, and Implemented or Interpreted Law:** 72-16-203

### NOTICE OF SUBSTANTIVE CHANGE

**TYPE OF FILING:** Amendment

**Rule or section number:**

**R940-6**

**Filing ID:** 57328

### Agency Information

<b>1. Title catchline:</b>	Transportation Commission, Administration	
<b>Building:</b>	Calvin Rampton	
<b>Street address:</b>	4501 S. 2700 W.	
<b>City, state:</b>	Taylorsville, UT	
<b>Mailing address:</b>	P.O. Box 148455	
<b>City, state and zip:</b>	Salt Lake City, Utah 84114-8455	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Leif Elder	801-580-8296	lelder@utah.gov
Marlene Galindo	801-965-4026	mgalindo1@utah.gov
James Godin	801-573-7181	jamesjgodin@agutah.gov
Lori Edwards	385-341-3414	loriedwards@agutah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

### General Information

<b>2. Rule or section catchline:</b>
R940-6. Prioritization of New Transportation Capacity Projects
<b>4. Purpose of the new rule or reason for the change:</b>
This rule change makes clerical adjustments to the rule language and adds new language to the rule to address Utah Trail Network projects. The proposed changes would also require all project nominations to include a reasonable cost estimate and a plan to address any costs that exceed the local government's or district's cost estimate.
<b>5. Summary of the new rule or change:</b>
The Department of Transportation is proposing to define a "Utah Trail Network project" and designating the model used to prioritize Utah Trail Network projects.

### Fiscal Information

<b>6. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:</b>
<b>A. State budget:</b>
There are no fiscal impacts to the state budget because this rule is clerical in nature. It merely defines new terms and outlines a new administrative process.

**B. Local governments:**

There are no fiscal impacts to local governments because this rule is clerical in nature. It merely defines new terms and outlines a new administrative process.

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

There are no fiscal impacts to small businesses because this rule is clerical in nature. It merely defines new terms and outlines a new administrative process.

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

There are no fiscal impacts to non-small businesses because this rule is clerical in nature. It merely defines new terms and outlines a new administrative process.

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

There are no fiscal impacts to persons because this rule is clerical in nature. It merely defines new terms and outlines a new administrative process.

**F. Compliance costs for affected persons:**

There are no compliance costs for affected persons because this rule is clerical in nature. It merely defines new terms and outlines a new administrative process.

**G. Regulatory Impact Summary Table** (This table includes only fiscal impacts the agency was able to measure. If the agency could not estimate an impact, it is excluded from this table but described in boxes A through F.)

Regulatory Impact Summary Table					
Fiscal Cost	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2026	FY2027	FY2028	FY2029	FY2030
State Budget	\$0	\$0	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

The Executive Director of the Department of Transportation, Carlos M. Bracerias, P.E., has reviewed and approved this regulatory impact analysis.

**Citation Information****7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 72-1-201	Section 72-1-304	
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**Incorporation by Reference Information**

<b>8. Incorporation by Reference :</b>	
<b>A. This rule adds or updates the following title of material incorporated by reference</b> (a copy of the material incorporated by reference must be submitted to the Office of Administrative Rules. <i>If none, leave blank</i> ):	
<b>Official Title of Materials Incorporated (from title page)</b>	Utah Trail Network - Active Transportation Investment Fund (ATIF) Project Evaluation Process
<b>Publisher</b>	Utah Department of Transportation
<b>Issue Date</b>	2024

**Public Notice Information**

<b>9. The public may submit written or oral comments to the agency identified in box 1.</b>	
<b>A. Comments will be accepted until:</b>	09/02/2025

<b>10. This rule change MAY become effective on:</b>	09/09/2025
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Carlos M. Bracerias, P.E., Executive Director, UDOT	<b>Date:</b>	06/30/2025
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**R940. Transportation Commission, Administration.****R940-6. Prioritization of New Transportation Capacity Projects.****R940-6-1. Authority and Purpose.**

- (1) The commission makes this administrative rule pursuant to authority delegated by Subsection 72-1-304(4).
- (2) This administrative rule is to provide a procedure the commission will follow to satisfy the requirements of Section 72-1-304.

**R940-6-2. Definitions.**

(1) "Active transportation investment fund" or "ATIF" means the capital projects fund created within the Transportation Investment Fund of 2005 created by Subsection 72-2-124(11).

~~[(1)]~~(2) "Commission" means the Utah Transportation Commission created by Subsection 72-1-301(1).

~~[(2)]~~(3) "Department" means the Utah Department of Transportation created by Subsection 72-1-201(1).

~~[(3)]~~(4) "Department approved active transportation plan" means an active transportation plan approved by the department.

~~[(4)]~~(5) "District" means a public transit district established in accordance with Title 17B Limited Purpose Local Government

Entities - Special Districts.

~~[(5)]~~(6) "Fixed guideway public transit" means a public transit facility that uses or occupies rail for the use of public transit or a separate right-of-way for the use of public transit such as bus rapid transit systems.

~~[(6)]~~(7) "Fund allocation percentage" means the fund request amount as a percentage of the total funding amount for a TIF active transportation project, TTIF first and last mile project, or TTIF transit project.

~~[(7)]~~(8) "Fund request amount" means the funding amount requested by a local government or district from either TIF or TTIF for a TIF active transportation project, TTIF first and last mile project, or TTIF transit project.

~~[(8)]~~(9) "In-kind match" means a non-cash match including a service, right-of-way, construction materials, or labor~~[d]~~ or equipment time valued at fair market value.

~~[(9)]~~(10) "Input list" means the list of projects that will be used in the prioritization process.

~~[(10)]~~(11) "Match" means the matching funds used to meet the matching requirement described in Section 72-2-124.

~~[(11)]~~(12) "Long-range transportation plan" or "LRP" means any one of the five plans developed by the department ~~[and]~~ or the state's four MPOs that forecast the state's transportation needs for the next 20-plus years, also known as a regional transportation plan or RTP.

~~[(12)]~~(13) "Metropolitan planning organization" or "MPO" means the same as it is defined by Subsection 72-1-208.5(1).

~~[(13)]~~(14) "Required match percentage" means the match percentage required for TIF active transportation projects, TTIF first and last mile projects, and TTIF transit projects described in Section 72-2-124.

~~[(14)]~~(15) "Statewide strategic initiative" or "SSI" means initiatives the department is required by Section 72-1-211 to develop and adopt.

~~[(15)]~~(16) "Strategic goals" means the department's strategic goals.

~~[(16)]~~(17) "TIF active transportation projects" means paved pedestrian or paved nonmotorized transportation projects ~~[per]~~ described in Section 72-2-124 that are funded by the TIF.

~~[(17)]~~(18) "TIF highway projects" means projects on state and federal highways ~~[per]~~ described in Section 72-2-124 that are funded by the TIF.

~~[(18)](19)~~ "Total funding amount" means the summation of the fund request amount and the match, including the value of any in-kind match.

~~[(19)](20)~~ "Transportation investment fund" or "TIF" means the capital projects fund created in 2005 by Subsection 72-2-124(1).

~~[(20)](21)~~ "Transit transportation investment fund" or "TTIF" means the fund within the Transportation Investment Fund of 2005 created by Subsection 72-2-124(9).

~~[(21)](22)~~ "TTIF first and last mile projects" means pedestrian or nonmotorized transportation projects that provide connection to a public transit system as described in Section 72-2-124 ~~that are funded by the TTIF.~~

~~[(22)](23)~~ "TTIF transit projects" means public transit capital development projects as described in Section 72-2-124.

~~[(23)](24)~~ "UDOT planning" or "planning" means the Planning Division of the Program Development Group of the department.

~~(25)~~ "Utah Trail Network project" or "UTN project" means paved pedestrian or paved nonmotorized trail projects described in Section 72-2-124 that are funded by the ATIF.

#### **R940-6-3. Prioritization Requirements.**

The commission, in consultation with the department and the MPOs, will develop a written prioritization process to determine priorities and funding levels of TIF active transportation, TTIF first and last mile, TIF highway, TTIF transit, and UTN projects, taking into consideration the department's statewide strategic initiatives ~~[described in Section 72-4-211]~~ and the department's strategic goals.

#### **R940-6-4. Prioritization Process.**

(1)~~(a)~~ The document "Prioritization Process Documentation," which was developed pursuant to the requirements of Section 72-1-304 (May 3, 2023) and was approved by the commission at its August 18, 2023 meeting, is incorporated by reference and may be accessed at <https://projectprioritization.udot.utah.gov/models>. These models are used to prioritize TIF active, TIF highway, TTIF transit and TTIF first and last mile projects.

~~(b)~~ The document "Utah Trail Network - Active Transportation Investment Fund (ATIF) Project Evaluation Process," which details the use of the TIF active transportation project model for prioritizing UTN projects and was approved by the commission at its November 17, 2023 meeting, is incorporated by reference and may be accessed at <https://utahtrailnetwork.udot.utah.gov/the-process>.

(2) The commission will provide notice of proposed amendments to the prioritization process in a public meeting, and provide an opportunity for public comments before amending the prioritization process. Amendments to the prioritization process will not affect projects that have already been funded.

(3)(a) If a state highway capacity project is identified in phase 1 of an LRP and the total project cost estimate is more than \$5,000,000 it will be included in the input list for TIF highway projects.

(b) The commission may consider additional TIF highway projects for prioritization beyond those identified in phase ~~[F]~~ of an LRP if during the development of the LRP the projects were determined to be a phase ~~[F]~~ need.

(4)(a) If a public transit capital development project of new capacity is identified in phase 1 of an LRP it will be included in the input list for TTIF transit projects.

(b) The commission may consider additional TTIF transit projects for prioritization beyond those identified in phase ~~[F]~~ of an LRP if during the development of the LRP the projects were determined to be a phase ~~[F]~~ need.

#### **R940-6-5. Requirements and Process for Project Nomination by Local Government or District.**

(1) Local governments or districts may nominate projects for prioritization, with the exception of UTN projects, which are not eligible for project nominations.

(2) The nomination requirements are as follows:

(a) TIF Highway Projects.

(i) A local government or district may nominate a project to the commission at this internet address:

<https://projectprioritization.udot.utah.gov/nominations>. Nominations must identify the project sponsor's name, address, phone number, and email address and include a detailed description of the nominated project including why the project is important to the local government or district. The local government or district must also demonstrate that the nominated project:

(A) is on a state highway; or

(B) will likely result in a road that meets the criteria of a state highway as described in Section 72-4-102.5 and that the local government wants designated as a state highway.

(b) TIF Active Transportation Projects.

(i) A local government or district may nominate a project to the commission at this internet address:

<https://projectprioritization.udot.utah.gov/nominations>. Nominations must identify the project sponsor's name, address, phone number, and email address and include a detailed description of the nominated project. The local government or district must also demonstrate that the nominated project meets the following requirements:

(A) the project is part of a department approved active transportation plan;

(B) the project will mitigate traffic congestion on the state highway system;

(C) there is an ongoing funding plan for maintenance and operations; and

(D) the match requirement will be met~~[-]~~.

~~[(E)]~~ there is a reasonable cost estimate for the project and sufficient information to explain the reasoning behind the estimate; and

~~[(F)]~~ there is a plan to address any costs that exceed the local government's or district's cost estimate.]

(c) TTIF Transit Projects.

## NOTICES OF PROPOSED RULES

(i) A local government or district may nominate a project to the Transportation Commission at this internet address: <https://projectprioritization.udot.utah.gov/nominations>. Nominations must identify the project sponsor's name, address, phone number, and email address and include a detailed description of the nominated project. The local government or district must also demonstrate that the nominated project meets the following requirements:

(A) There is an ongoing funding plan for maintenance and operations. If the project sponsor is a local government, this will require documentation from the transit operator that the project will be accommodated within the transit operator's maintenance and operations plans.

(B) The local government or district will meet the match requirement.

(C) If the nominated project would provide new fixed guideway public transit service within an MPO boundary, the project is identified in phase 1 of an LRP or, during the development of an LRP, the project was determined to be a phase 1 need.

(D) The majority of project costs are for components that directly add capacity to a public transit system such as additional or more frequent bus, fixed guideway public transit, shuttle, street car, or vanpool service.

(d) TTIF First and Last Mile Projects.

(i) A local government or district may nominate a project to the commission at this internet address: <https://projectprioritization.udot.utah.gov/nominations>. Nominations must identify the project sponsor's name, address, phone number, and email address and include a detailed description of the nominated project. The local government or district must also demonstrate that the nominated project meets the following requirements:

(A) there is an ongoing funding plan for maintenance and operations;

(B) the match requirement will be met; and

(C) the project will connect and improve access to transit.

(3) For each project nomination, a local government or district shall include:

(i) a reasonable cost estimate for the project and sufficient information to explain the reasoning behind the estimate; and

(ii) a plan to address any costs that exceed the local government's or district's cost estimate.

~~[(3)]~~(4)(a) With the exception of a nominated TIF highway project, the commission will include each nominated project that meets the requirements of Subsection (2) in the applicable input list.

(b) The commission will determine if a nominated TIF highway project will be included in the input list. The factors used in this determination may include the following:

(i) if, during the development of an LRP, a project was determined to be a phase [I] 1 need; and

(ii) if there are any proposed additional funding sources.

~~[(4)]~~(5) The commission may request additional information for a nominated project from the project sponsor.

~~[(5)]~~(6)(a) A match requirement for a nominated project may include an in-kind match.

(b) To determine whether the match for a nominated project meets the required match percentage, the department will divide the match amount, including the value of any in-kind match, by the total funding amount.

(c) If the amount calculated under Subsection ~~[(3)]~~(6)(b) is equal to or greater than the required match percentage, the department will determine the match requirement to be met.

(d) For example, for a project with a required match percentage of 30%, a fund request amount of \$700,000, and a match of \$300,000, the amount calculated under Subsection ~~[(5)]~~(6)(b) would be .30 (\$300,000 divided by \$1,000,000). Because .30 equals 30%, the local government or district would meet the match requirement.

### **R940-6-6. Commission Discretion.**

The commission, in consultation with the department, may establish additional criteria or use other considerations in establishing funding levels for TIF active transportation, TTIF first and last mile, TIF highway, TTIF transit, and UTN projects. As provided in Section 72-1-305, if the commission approves funding for a project over another project that has a higher prioritization rank under the criteria set forth in Section R940-6-4, the commission will identify the change, ~~and~~ explain the reasons for the change, ~~it~~ and accept public comment at a public meeting.

**KEY: transportation commission, roads, transit capacity**

**Date of Last Change: 2025[January 23, 2024]**

**Notice of Continuation: October 30, 2020**

**Authorizing, and Implemented or Interpreted Law: 72-1-201; 72-1-304**

## **End of the Notices of Proposed Rules Section**

## NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-DAY RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-DAY RULE** including the name of a contact person, justification for filing a **120-DAY RULE**, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **120-DAY RULE** is printed. New text is underlined (example) and text to be deleted is struck out with brackets surrounding the deleted text ([~~example~~]). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (. . . . .) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective when filed with the Office of Administrative Rules, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule. Because of its temporary nature, a **120-DAY RULE** is not codified as part of the *Utah Administrative Code*.

The law does not require a public comment period for **120-DAY RULES**. However, when an agency files a **120-DAY RULE**, it may file a **PROPOSED RULE** at the same time, to make the requirements permanent.

Emergency or **120-DAY RULES** are governed by Section 63G-3-304, and Section R15-4-8.

### NOTICE OF EMERGENCY (120-DAY) RULE

Rule or section Number:	R66-2	Filing ID: 57325
Effective date:	07/09/2025	

### Agency Information

1. Title catchline:	Agriculture and Food, Specialized Products	
Building:	TSOB South Bldg, Floor 2	
Street address:	4315 S 2700 W	
City, state	Taylorsville, UT 84129	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	Phone:	Email:
Amber Brown	3852-245-5222	ambermbrown@utah.gov
Brandon Forsyth	801-710-9945	bforsyth@utah.gov
Camille Knudson	801-597-6010	camillek@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

### General Information

2. Rule or section catchline:
R66-2. Cannabis Processing

**4. Purpose of the new rule or reason for the change:**

This filing is needed to remove the recently added limitation on putting directions for use on the face of a product, as well as the recently added requirement related to the size of flavor, strain, and terpene information on a product label due to expensive unintended consequences that have been raised by licensees.

**5. Summary of the new rule or change:**

In Section R66-2-13, language not allowing directions for use on a "product face" have been removed, as well as the requirement that flavor, strain, and terpene information be printed in the same size and font as other label information.

**6A. The agency finds that regular rulemaking would:**

- ☒ cause an imminent peril to the public health, safety, or welfare;
- ☐ cause an imminent budget reduction because of budget restraints or federal requirements; or
- ☐ place the agency in violation of federal or state law.

**B. Specific reasons and justifications for this finding:**

Since publishing our last rule changes, the Department of Agriculture and Food (department) has learned from licensees that the label changes the department is proposing would make many labels non-compliant and illegal, limiting patients' ability to access medical cannabis products they need, negatively impacting public health and safety.

**Fiscal Information****7. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A. State budget:**

This change will not impact the state budget because the requirements that are being removed have not yet been implemented.

**B. Local governments:**

Local governments will not be impacted because they do not participate in the medical cannabis program.

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

Small businesses will not be impacted because the requirements that are being removed have not yet been implemented.

If the changes were allowed to stay in place (without the emergency rule) this would pose a significant cost on small businesses.

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

Other persons do not participate in the medical cannabis program and will not be impacted.

**E. Compliance costs for affected persons:**

Compliance costs have not changed because the new requirements being removed by the emergency rule have not yet been implemented.

**F. Comments by the department head on the fiscal impact this rule may have on businesses** (Include the name and title of the department head):

This rule will not have a fiscal impact on businesses. Kelly Pehrson, Commissioner

**Citation Information****8. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

Section 4-41a-103

Section 4-41a-302



## Agency Authorization Information

<b>Agency head or designee and title:</b>	Kelly Pehrson, Commissioner	<b>Date:</b>	07/09/2025
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**R66. Agriculture and Food, Medical Cannabis and Industrial Hemp.****R66-2. Cannabis Processing.****R66-2-1. Authority and Purpose.**

Pursuant to Subsections 4-41a-103(5), 4-41a-302(3)(b)(ii), 4-41a-404(3), 4-41a-405(2)(b)(iv), 4-41a-701(3), 4-41a-801(1), and 4-2-103(1)(i), this rule establishes the application process, qualifications, and requirements to obtain and maintain a cannabis processing license.

**R66-2-2. Definitions.**

- (1) "Advertised Cannabinoid" means a cannabinoid listed on the product face.
- (2) "Appealing to children" means:
  - (a) has a likeness bearing resemblance to a cartoon character or fictional character; or
  - (b) imitates a food or other product that is typically marketed toward or is appealing to children.
- (3)(a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the cannabis plant.
- (b) "Artificially derived cannabinoid" does not include:
  - (i) a naturally occurring chemical substance that is separated from the cannabis plant by a chemical or mechanical extraction process; or
  - (ii) a cannabinoid that is produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst.
- (4) "Brand name" means a name given to a product by the manufacturer that does not include an image or symbol. "Brand name" does not mean strains or flavors.
- (5) "Board" means the Cannabis Production Establishment and Pharmacy Licensing Advisory Board, created in Section 4-41a-201.1.
- (6) "Cannabinoid isolate" means the same as the term is defined in Subsection R66-3-2(11).
- (7)(a) "Cannabis" means any part of a marijuana plant.
- (b) "Cannabis" does not mean, for the purposes of this rule, industrial hemp.
- (8) "Cannabis concentrate" means the product of any chemical or physical process applied to cannabis biomass that concentrates or isolates the cannabinoids contained in the biomass.
- (9) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.
- (10) "Cannabis cultivation facility" means a person that:
  - (a) possesses cannabis;
  - (b) grows or intends to grow cannabis; and
  - (c) sells or intends to sell cannabis to a cannabis cultivation facility or to a cannabis processing facility.
- (11) "Cannabis derivative product" means a product made using cannabis concentrate.
- (12) "Cannabis fact panel" means a part of the label that contains the information described in Subsections R66-2-13(10) and R66-2-13(12).
- (13) "Cannabis plant product" means any portion of a cannabis plant intended to be sold by a medical cannabis pharmacy in a form that is recognizable as a portion of a cannabis plant.
- (14) "Cannabis processing facility" means a person that:
  - (a) acquires or intends to acquire cannabis from a cannabis production establishment;
  - (b) possesses cannabis with the intent to manufacture a cannabis product;
  - (c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis concentrate; and
  - (d) sells or intends to sell a cannabis product to a medical cannabis pharmacy.
- (15) "Cannabis processing facility agent" means an individual who holds a valid cannabis production establishment agent registration card with a cannabis processing facility designation.
- (16) "Cannabis production establishment agent registration card" means a registration card that the department issues that:
  - (a) authorizes an individual to act as a cannabis production establishment agent; and
  - (b) designates the type of cannabis production establishment for which an individual may act as an agent.
- (17) "COA" means Certificate of Analysis from an independent cannabis testing laboratory.
- (18) "Complaint" means any negative feedback received from a medical cannabis patient or medical cannabis or industrial hemp licensee.
- (19) "Department" means the Utah Department of Agriculture and Food.
- (20) "Directions for use" means recommended routes of administration for a medical cannabis treatment and suggested usage guidelines, and may include:
  - (a) THC percentage;
  - (b) strain names;
  - (c) strain dominance; or
  - (d) dietary restrictions.

## NOTICES OF 120-DAY (EMERGENCY) RULES

- (21) "Label" means a written, printed, or graphic display on the immediate container of a product.
- (22) "Labeling" means a label and other written, printed, or graphic display:
  - (a) on the product or the product's container or wrapper; or
  - (b) accompanying the product.
- (23) "Logo" means symbols, stylized text, or both that represent a company through a visual image that can be easily understood and recognized.
- (24) "Lot" means the quantity of:
  - (a) flower produced on a particular date and time, following clean up until the next clean up during which the same materials are used; or
  - (b) trim, leaves, or other plant matter from cannabis plants produced on a particular date and time, following clean up until the next clean up.
- (25) "Product face" means the part of a label that is on the outer packaging and most likely to be displayed, presented, or shown under customary conditions of display for retail sale.
  - (a) For cylindrical containers that wrap around the entire container, the product face will be considered 50% of the entire label.
  - (b) For logos or brand[s] names on container lids the product face will be considered the lid and the front of the container.
- (26) "Total THC" means the sum of the determined amounts of delta-9-THC and delta-9-THCA, according to the formula: Total THC = delta-9-THC + (delta-9-THCA x 0.877).

### **R66-2-3. Cannabis Processing Facility License.**

- (1) A cannabis processing facility license allows the licensee to receive cannabis from a licensed cannabis cultivator or processor.
- (2) A cannabis processing facility license allows the licensee to manufacture cannabis products and send them to medical cannabis pharmacies for sale.
- (3) Each cannabis processing facility license shall expire one calendar year from the date of licensure.

[7]

### **R66-2-4. Cannabis Processing Facility Requirements.**

- (1) A cannabis processing facility operating plan shall meet the requirements described in Section 4-41a-204 and contain a blueprint of the facility containing the following information:
  - (a) the areas where cannabis is to be extracted;
  - (b) the areas where cannabis or cannabis products are to be packaged and labeled;
  - (c) the areas where cannabis products are manufactured;
  - (d) location of storerooms for cannabis awaiting extraction;
  - (e) location of storerooms for cannabis awaiting further manufacturing;
  - (f) the area where finished cannabis and cannabis products are stored;
  - (g) the location of toilet facilities and hand washing facilities;
  - (h) the location of a break room and location of personal belonging lockers; and
  - (i) the location of the areas to be used for loading and unloading of cannabis and cannabis products.
- (3) A cannabis processing facility shall have a written plan to handle potential recall and destruction of cannabis due to contamination.
- (4) A cannabis processing facility operating plan shall include a waste disposal plan that complies with 4-41a-405.
- (5) A cannabis processing facility shall use a standardized scale that is registered with the department when cannabis is:
  - (a) packaged for sale by weight;
  - (b) bought and sold by weight; or
  - (c) weighed for entry into the inventory control system.
- (6) A cannabis processing facility creating cannabis derivative product shall develop standard operating procedures.
- (7) Pursuant to Subsection 4-41a-403(4)(b), a cannabis processing facility may use signage on the property that includes a logo, as long as the logo does not include:
  - (a) terms, slang, phrasing, or verbiage associated with the recreational use of cannabis;
  - (b) any image bearing resemblance to a cartoon character or fictional character whose target audience is children or minors;
  - (c) content, symbol, or imagery that appeals to children;
  - (d) imagery featuring a person using the product in any way;
  - (e) any recreationally oriented subject; or
  - (f) any statement, design, or representation, picture, or illustration that is obscene or indecent.
- (8) A cannabis processing facility shall keep records verifying that each time they receive a batch of vaporizer cartridges a sample is tested for heavy metals by an independent cannabis testing laboratory pursuant to Section 4-41a-603 or have a certificate of conformance from the manufacturer.

### **R66-2-5. Separation of Cannabis and Hemp Processed in a Single Facility.**

- (1) Any facility that has both an industrial hemp processing license and a license for medical cannabis processing shall ensure physical separation of medical cannabis and industrial hemp in their facility at all times.
- (2) Processing of industrial hemp material and cannabis material may not occur on the same equipment on the same day, unless cleaned between runs.

(3) The licensee shall provide the department an operating plan detailing how separation of materials is implemented, including the facility's separation procedures for raw material, extract, and final products that ensures:

- (a) only one material is processed at a time;
  - (b) packaging tables are only used for the material being processed each day; and
  - (c) machinery is cleaned between material being processed;
  - (i) cleaning logs shall be kept and provided to the department upon inspection of the facility; and
  - (ii) cleaning logs shall include the machines used, the date cleaned, and the name of the employee that conducted the cleaning.
- (4) Cannabis and hemp material shall be clearly labeled pursuant to the requirements of this rule and Rule R66-30 and shall be in sealed containers.

**R66-2-6. Cannabis Extraction Requirements.**

- (1) A cannabis processing facility shall ensure hydrocarbons n-butane, isobutane, propane, or heptane are of at least 99% purity.
- (2) A cannabis processing facility shall use a professional grade extraction system designed to recover the solvents, work in an environment with proper ventilation, and control each source of ignition where a flammable atmosphere is or may be present.
- (3) A cannabis processing facility using carbon dioxide (CO<sub>2</sub>) gas extraction system shall use a professional grade closed loop CO<sub>2</sub> gas extraction system where each vessel is rated to a minimum of six hundred pounds per square inch and CO<sub>2</sub> shall be at least 99% purity.
- (4) Closed loop hydrocarbon, alcohol, or CO<sub>2</sub> extraction systems shall be commercially manufactured and bear a permanently affixed and visible serial number.
- (5) A cannabis processing facility using a closed loop system shall, upon request, provide the department with certification from a licensed engineer stating the system is:
  - (a) safe for its intended use;
  - (b) commercially manufactured; and
  - (c) built to conform to recognized and generally accepted good engineering practices, such as:
    - (i) the American Society of Mechanical Engineers (ASME);
    - (ii) American National Standards Institute (ANSI);
    - (iii) Underwriters Laboratories; or
    - (iv) The American Society for Testing and Materials.
- (6) The certification document shall contain the signature and stamp of the certifying professional engineer and the serial number of the extraction unit being certified.
- (7) A cannabis processing facility may use an alternative extraction method with prior approval from the department.
- (8) A cannabis processing facility shall use food grade ingredients to create cannabis derivative product.
- (9) A cannabis processing facility may use heat, screens, presses, steam distillation, ice water, and other mechanical methods which do not use solvents or gasses.
- (10) A cannabis processing facility shall ensure each solvent, with the exception of CO<sub>2</sub>, is extracted in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.
- (11) A cannabis processing facility agent using solvents or gasses in a closed loop system shall be fully trained in the use of the system and have direct access to applicable material safety data sheets.
- (12) Parts per million for one gram of finished extract cannot exceed residual solvent or gas levels provided in Rule R66-3.

**R66-2-7. Cannabinoid Isolate.**

- (1) A licensed Tier 1 cannabis processing facility may use cannabinoid isolate from a licensed industrial hemp processing facility.
- (2) A Tier 1 cannabis processing facility may not receive more than 120 kilograms of cannabinoid isolate in a single license year.
- (3) Any transfer of cannabinoid isolate shall be accompanied by a full panel COA.
- (4) The cannabis processing facility shall maintain record of each transfer of cannabinoid isolate that is available for review by the department, including:
  - (a) the source of the cannabinoid isolate and verification that it was derived from certified industrial hemp;
  - (b) the intended use of the cannabinoid isolate; and
  - (c) the disposition of the cannabinoid isolate.
- (5) Upon receipt of cannabinoid isolate, a cannabinoid processing facility shall submit a sample of the isolate to a licensed independent cannabis testing laboratory for cannabinoid and adulterant testing, pursuant to the requirements of Rule R66-3.

**R66-2-8. Security Requirements.**

- (1) At a minimum, a licensed cannabis processing facility shall have a complete video surveillance system:
  - (a) with minimum camera resolution of 1280 x 720 pixels or pixel equivalent for analog; and
  - (b) that allows for the clear and certain identification of any person and activity
- (2) Each visitor to a cannabis processing facility shall be required to display an identification badge issued by the facility while on the premises.
- (3) At any time, visitors shall be escorted by a cannabis processing facility agent.
- (4) A cannabis processing facility shall keep and maintain a visitors log showing:
  - (a) the full name and age of each visitor entering the facility;
  - (b) badge number issued;
  - (c) the time of arrival;

## NOTICES OF 120-DAY (EMERGENCY) RULES

- (d) the time of departure; and
- (e) the purpose of the visit.
- (5) The cannabis processing facility shall keep the visitors log for a minimum of one year.
- (6) The cannabis processing facility shall make the visitor log available to the department upon request.

### **R66-2-9. Inventory Control.**

- (1) Each batch or lot of cannabis, cannabis derivative product, cannabis product, test sample, or cannabis waste shall be entered into the inventory control system. Recorded information shall include:
  - (a) unique identification number;
  - (b) batch or lot number;
  - (c) name of product;
  - (d) facility name and license number; and
  - (e) date entered into the inventory control system.
- (2) Each batch or lot of cannabis, cannabis derivative product, cannabis product, sample, or cannabis waste shall be traceable to the lot.
  - (3) Unique identification numbers may not be reused.
  - (4) Each batch, lot, or sample of cannabis, cannabis derivative product, cannabis product, or cannabis waste shall have a physical tag containing information listed in Subsection R66-2-9(1).
  - (5) The tag shall be legible and placed in a position that can be clearly read.
  - (6) A receiving cannabis processing facility shall;
    - (a) document in the inventory control system any material containing cannabis received, and any difference between the quantity specified in the transport manifest and the quantity received; and
    - (b) within one working day, notify the department if disparities in the quantity of cannabis received is greater than 10% from the manifest recorded amount.

### **R66-2-10. Cannabis Processing Facility Agents.**

- (1) A cannabis processing facility is responsible to ensure that each agent has received any task specific training as outlined in the operating plan submitted to the department.
- (2) A cannabis processing facility agent shall have a properly displayed identification badge which has been issued by the department at all times while on the facility premises or while engaged in the transportation of cannabis.
- (3) Each cannabis processing facility agent shall have their state issued identification card in their possession to certify the information on their badge is correct.

### **R66-2-11. Processing of Cannabis and Cannabis Product.**

A licensee that manufactures cannabis products shall be registered with the Division of Regulatory Services within the department.

### **R66-2-12. Irradiated Plant Product From Cannabis Cultivators.**

- (1) A cannabis processor may use methods of irradiation for remediation of cannabis if:
  - (a) the method is approved in their operating plan, which includes:
    - (i) type of radiation or ionizing energy source;
    - (ii) equipment; and
    - (iii) documentation of state approval by the Utah Department of Environmental Quality;
  - (b) the product has failed quality assurance testing for microbial contaminants; and
  - (c) the processor has submitted and received approval for remediation to use radiation.
- (2) Batches or lots of cannabis remediated by radiation shall be noted in the inventory control system, and each container of the batch or lot shall have a sticker with the radura symbol until the batch is completely used or destroyed.
- (3) The processor shall maintain records required by this section for three years after the final disposition of the irradiated cannabis, and shall make the records available for inspection and copy by the department. Records shall include:
  - (a) the cannabis batch treated;
  - (b) lot identification;
  - (c) approved operating plan and evidence of compliance with the operating plan;
  - (d) ionizing energy source;
  - (e) source calibration;
  - (f) dosimetry;
  - (g) dose distribution in the product;
  - (h) the date of irradiation;
  - (i) final products that were made by the irradiated cannabis; and
  - (j) pharmacies the product was sent to.
- (4) The label of a cannabis product that contains irradiated cannabis shall display:
  - (a) the radura symbol; and
  - (b) the statement: "Treated with radiation" in text as prominent as the ingredients.
- (5) The radura symbol and statement shall be placed prominently and conspicuously on the label.

(6) Processors shall notify a pharmacy that the product has been irradiated before purchase.

(7) Processors that receive irradiated cannabis from a cultivator shall follow Subsections R66-2-12(4)(a), R66-2-12(4)(b), R66-2-12(5) and R66-2-12(6).

**R66-2-13. Labeling and Packaging of Cannabis and Cannabis Product.**

(1) Cannabis product labeling shall contain the following information:

(a) the medicinal dosage form identified on the product face along with the words "THC or Cannabis Infused":

(i) "gummies" may be used instead of "gelatinous cube";

(ii) "tincture" may be used instead of "sublingual preparation" or "liquid suspension";

(iii) a descriptive product name, that is a common name for the dosage form, which is allowed if the text is smaller than the dosage form and the name is not appealing to children, recreational, or contain adjectives;

(b) the name and license number of the cannabis processing facility;

(c) directions for consumers to contact the department with product complaints by going to [medicalcannabis.utah.gov/production](http://medicalcannabis.utah.gov/production);

(d) for products containing THC, a warning symbol provided by the department including colors; and

(e) the amount of total THC contained in the package, in milligrams.

(2) A cannabis processing facility may include a QR code on the cannabis product labeling that links to a COA from a licensed independent cannabis testing laboratory. The QR code may not link to any other information.

(3) Any information appearing on the cannabis product labeling shall be:

(a) displayed in any legible font, that is not a script or decorative font, provided that the lowercase letter "o" is at least one-sixteenth inch in height;

(b) displayed in a color that contrasts conspicuously with its background; and

(c) displayed in English, although a licensee may also choose to display required information in additional languages.

~~[(4) Flavors, strains and terpenes shall be printed in the same size and font as the information in Subsection R66-2-13(6)(a) through Subsection 66-2-13(6)(e).]~~

~~[(5)]~~ (4) A cannabis processing facility shall place a cannabis fact panel on a cannabis product before the sale of the cannabis product to a medical cannabis pharmacy.

~~[(6)]~~ (5) The cannabis fact panel shall be printed in black and white.

~~[(7)]~~ (6) The cannabis fact panel shall be securely affixed to the package.

~~[(8)]~~ (7) The cannabis fact panel for cannabis plant product shall include the following information, from top to bottom, in the order as listed:

(a) the name of the cannabis cultivation facility, identified as the cultivator;

(b) the lot number;

(c) the date of harvest;

(d) the date of final testing;

(e) the batch number;

(f) the date on which the product was packaged;

(g) the quantity of any cannabinoid listed as present on the COA that is greater than 1% of total cannabinoids;

(h) the expiration date; and

(i) the net weight displayed in grams.

~~[(9)]~~ (8) THC potency levels for cannabis flower shall be listed as total THC in milligrams per gram.

~~[(10)]~~ (9) The cannabis fact panel for cannabis derivative product shall include the following information, from top to bottom, in the order listed:

(a) the batch number;

(b) the date of the final testing;

(c) the date on which the product was packaged;

(d) for products intended to be ingested, the amount of total THC and any advertised cannabinoid in milligrams per serving;

(e) the quantity of any cannabinoid listed as present on the COA that is greater than 1% of total cannabinoids;

(f) the expiration date;

(g) the total amount of THC measured in milligrams per gram;

(h) a list of each ingredient and each major food allergen as identified in 21 U.S.C. 343;

(i) the identity of any artificially derived cannabinoid present in the product;

(j) the net weight of the product displayed in grams or milliliters and number of pieces, if applicable; and

(k) a disclosure of the type of extraction process used and any solvent, gas, or other chemical used in the extraction process.

~~[(11)]~~ (10) A cannabis processing facility may include a QR code affixed to the product that is scannable for inventory control at the pharmacy. The QR code may not link to any other information.

~~[(12)]~~ (11) The label of a cannabis derivative product may include a flavor name if it is not candy-like or a name that appeals to children.

~~[(13)]~~ (12) The label of a cannabis product that contains an artificially derived cannabinoid shall clearly display the following text: "This product contains artificially derived cannabinoids."

~~[(14)]~~ (13) Any terpene listed on a cannabis product package shall be verified as present by a licensed independent cannabis testing laboratory and have its quantity listed on the fact panel.

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(1[5]4) A cannabis processing facility may include a logo and product brand name on the cannabis product face that is exempt from the requirements of Subsection R66-2-13(6) and that:

- (a) does not exceed 20% of the product face;
- (b) does not obscure the information required on the label; and
- (c) does not include:
  - (i) terms, slang, phrasing, or verbiage associated with the recreational use of cannabis;
  - (ii) any image bearing resemblance to a cartoon character or fictional character whose target audience is children or minors;
  - (iii) content, symbol, or imagery that appeals to children;
  - (iv) imagery featuring a person using the product in any way;
  - (v) any recreationally oriented subject; or
  - (vi) any statement, design, or representation, picture, or illustration that is obscene, sexual, or criminal.

(1[6]5)(a) No other information, illustration, or depiction with the exception of directions for use or an item required by state law shall appear on the labeling.

~~[(a) Directions for use may not be placed on the product face.]~~

(b) Any of the warnings required in Chapter 4-41a may be added to the label of any product.

(1[7]6) Shapes on cannabis product packaging or labeling may not resemble the product or real-world items.

(1[8]7) Labeling may not contain medical claims.

(1[9]8) Cannabis product packaging, logos, and brand names shall be pre-approved by the department.

(1[20]19) The department reserves the right to deny any label, logo, or brand name if the department reasonably believes it is in conflict with Chapter 4-41a or this section.

### **R66-2-14. Recall Protocol.**

(1) The department may initiate a recall of cannabis or cannabis products if:

- (a) evidence exists that pesticides not approved by the department are present on or in the cannabis or cannabis product;
- (b) evidence exists that residual solvents are present on or in cannabis or cannabis product;
- (c) evidence exists that harmful contaminants are present on or in cannabis or cannabis product; or
- (d) the department believes or has reason to believe the cannabis or cannabis product is unfit for human consumption.

(2) The recall plan of a cannabis processing facility shall include, at a minimum:

- (a) a designation of at least one member of the staff who serves as the recall coordinator;
- (b) procedures for identifying and isolating product to prevent or minimize distribution to patients;
- (c) procedures to retrieve and destroy product; and
- (d) a communications plan to notify those affected by the recall.

(3) The cannabis processing facility shall track the total amount of affected cannabis or cannabis product and the amount of affected cannabis or cannabis product returned to the facility as part of the recall.

(4) The cannabis processing facility shall coordinate the destruction of the cannabis or cannabis product with the department and allow the department to oversee the destruction of the affected product.

(5) The department has authority to monitor the progress of the recall until the department declares an end to the recall.

(6) A cannabis production facility shall notify the department before initiating a voluntary recall.

### **R66-2-15. Change in Operation Plans.**

(1) A cannabis processing facility shall submit a notice, on a form provided by the department, before making any changes to the facility's operating plan, including:

- (a) ownership or financial backing of the facility;
- (b) the facility's name;
- (c) a change in location;
- (d) any modification, remodeling, expansion, reduction or physical, non-cosmetic alteration of a facility;
- (e) changes or adds processing or extraction equipment;
- (f) adds a new product or dosage form; or
- (g) any information requested by the department that shall allow the department to determine if requirements will be met.

(2) A cannabis processing facility may not implement changes to the initial approved operation plan without approval.

(3) The board shall approve of requested changes unless approval would lead to a violation of the applicable laws and rules of the state.

(4) The department shall specify the reason for the denial of approval for a change to the operation plan.

(5) Before the board's review of a cannabis production establishment license under Subsection 4-41a-201.1(7)(e), the cannabis production establishment shall provide the board with:

(a) blueprints that show that there will be physical separation between medical cannabis and industrial hemp produced in their facility, including demonstrating storage and packaging areas are separate; and

(b) any information requested by the board that shall allow the board to determine if the requirements of Section R66-2-5 will be met before the medical cannabis production establishment processes industrial hemp or industrial hemp products.

**R66-2-16. Renewals.**

- (1) A cannabis processing facility shall submit a notice of intent to renew and the licensing fee to the department within 30 days of license expiration.
- (2) The licensee shall report the information required for renewal under Subsection 4-41a-201.1(10)(b)(iii) to the board.
- (3) If the licensing fee and intent to renew are not submitted by the day of license expiration, the licensee may not continue to operate.
- (4) The board may take into consideration significant violations issued in determining license renewals.

**R66-2-17. Targeted Marketing.**

- (1) A medical cannabis processor may engage in targeted marketing of the processor's medical cannabis product, medical cannabis brand, or a medical cannabis device pursuant to Section 4-41a-604.
- (2) Targeted marketing may not:
  - (a) include deceptive, false or misleading statements;
  - (b) contain any health-related statement that is untrue or tends to create a misleading impression as to the effects on health of cannabis consumption;
  - (c) promote excessive consumption;
  - (d) contain a statement, design, illustration, picture, or representation that:
    - (i) encourages or represents the recreational use of cannabis;
    - (ii) displays the use of cannabis, including the consumption, smoking, or vaping of cannabis;
    - (iii) encourages or promotes cannabis for use as an intoxicant;
    - (iv) is obscene or indecent;
  - (e) include any image designed or likely to appeal to children, such as:
    - (i) cartoons;
    - (ii) toys;
    - (iii) animals;
    - (iv) children; or
    - (v) any other likeness to images, characters, or phrases that are popularly used to advertise to children;
  - (f) contain any language or imagery that is likely to mislead patients to believe that the medical cannabis product has been endorsed, made, or used by the state or any of its representatives, except where specifically authorized; or
  - (g) display medical cannabis products or images of products where the advertisement is visible to members of the public.
- (3) Targeted marketing shall accurately and legibly identify the medical cannabis processor responsible for its content and include a statement that cannabis products are for use by patients only.
- (4) Any targeted marketing for medical cannabis products that is related to the benefits, safety, or efficacy of the product, including therapeutic or medical claims, shall:
  - (a) be supported by substantial, current clinical evidence or data; and
  - (b) include information on side effects or risks associated with the use of cannabis.
- (5) A medical cannabis processor may have a link on their website to allow individuals to sign up to receive targeted marketing electronically.

**R66-2-18. Violation Categories.**

- (1) Public Safety Violations: \$3,000- \$5,000 per violation. This category is for violations which present a direct threat to public health or safety including:
  - (a) cannabis sold to an unlicensed source;
  - (b) cannabis purchased from an unlicensed source;
  - (c) refusal to allow inspection;
  - (d) failure to comply with testing requirements;
  - (e) a test result for high pesticide residue in the cannabis produced or cannabis product;
  - (f) a test result for high residual solvents, heavy metal, microbials, molds, or other harmful contaminants;
  - (g) failure to maintain required cleanliness and sanitation standards;
  - (h) unauthorized personnel on the premises;
  - (i) permitting criminal conduct on the premises;
  - (j) possessing, manufacturing, or distributing cannabis products that the person knows or should know appeal to children;
  - (k) failure to follow an approved recall protocol; or
  - (l) engaging in or permitting a violation of the Title 4, Chapter 41a, Cannabis Production Establishments, which amounts to a public safety violation as described in this subsection.
- (2) Regulatory Violations: \$1,000-\$5,000 per violation. This category is for violations involving this rule and other applicable state rules including:
  - (a) failure to maintain alarm and security systems;
  - (b) failure to keep and maintain records for at least two years;
  - (c) failure to maintain traceability;
  - (d) failure to follow transportation requirements;
  - (e) failure to follow the waste and disposal requirements;

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- (f) failure to maintain separation between cannabis and hemp;
- (g) failure to follow labeling and packaging requirements;
- (h) failure to meet extraction requirements;
- (i) distributing a final cannabis product with an actual weight that is lower than the net weight listed on the cannabis fact panel;
- (j) engaging in or permitting a violation of Title 4, Chapter 41a, Cannabis Production Establishments or this rule which amounts to a regulatory violation as described in this subsection; or
- (k) failure to maintain standardized scales.
- (3) Licensing Violations: \$500- \$5,000 per violation. This category is for violations involving licensing requirements including:
  - (a) an unauthorized change to the operating plan;
  - (b) failure to notify the department of changes to the operating plan;
  - (c) failure to notify the department of changes to financial or voting interests of greater than 2%;
  - (d) failure to follow the operating plan as approved by the department;
  - (e) engaging in or permitting a violation of this rule or Title 4, Chapter 41a, Cannabis Production Establishments which amounts to a licensing violation as described in this subsection; or
  - (f) failure to respond to violations.
- (4) The department shall calculate penalties based on the level of violation and the adverse effect or potential adverse effect at the time of the incidents giving rise to the violation.
- (5) The department may enhance or reduce the penalty based on the seriousness of the violation.

**KEY: cannabis processing, cannabis production establishment**

**Date of Last Change: 2025[June 24, 2025]**

**Authorizing, and Implemented or Interpreted Law: 4-41a-103(5); 4-41a-404(3); 4-41a-701(3); 4-41a-302(3)(b)(ii); 4-2-103(1)(i); 4-41a-405(2)(b)(iv); 4-41a-801(1)**

**End of the Notices of 120-Day (Emergency) Rules Section**



# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at [adminrules.utah.gov](http://adminrules.utah.gov). The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

**REVIEWS** are governed by Section 63G-3-305.

NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION		
Rule number:	R51-7	Filing ID: 54443
Effective date:	07/09/2025	

## Agency Information

1. Title catchline:	Agriculture and Food; Administration	
Building:	Taylorsville State Office Building, South Building, Floor #2	
Street address:	4315 S. 2700 W.	
City, state:	Taylorsville, Utah	
Mailing address:	PO BOX 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact persons:		
Name:	Phone:	Email:
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Camille Knudson	801-597-6010	camilleK@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

## General Information

2. Rule catchline:	
R51-7. Open and Public Meetings Act Electronic Meetings	
3. Statutory provisions that authorize or require this rule and an explanation of those particular statutory provisions:	
Section 52-4-207	Authorizes public bodies to conduct a meeting that some or all members of the public body may attend through an electronic video, audio, or both connection.
Section 63G-3-201	Requires the Department of Agriculture and Food (department) to create rules that authorize conducting electronic meetings.
Section 4-2-103	Authorizes the department to create rules that are necessary for the effective administration of the agricultural laws of the state.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

The department has not received any public comments regarding this rule within the past five years.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

The department would like this rule to continue to provide the necessary information to implement electronic meetings for the various boards within the department to ensure transparency for the public and other stakeholders.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Commissioner, Kelly Pehrson	<b>Date:</b>	07/09/2025
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**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule number:</b>	<b>R58-15</b>	<b>Filing ID: 57155</b>
<b>Effective date:</b>	<b>07/07/2025</b>	

**Agency Information**

<b>1. Title catchline:</b>	Agriculture and Food, Animal Industry	
<b>Building:</b>	Taylorsville State Office Building, South bldg., Floor 2	
<b>Street address:</b>	4315 S. 2700 W.	
<b>City, state:</b>	Taylorsville, UT	
<b>Mailing address:</b>	PO Box 146500	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6500	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Amber Brown	385-245-5222	Ambermbrown@utah.gov
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Leann Hunting	801-982-2200	Leannhunting@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule catchline:</b>	
R58-15. Agriculture and Wildlife Damage Prevention	
<b>3. Statutory provisions that authorize or require this rule and an explanation of those particular statutory provisions:</b>	
Subsection 4-2-103(1)(i)	Gives general rulemaking authority to administer the agricultural laws.
Subsection 4-23-105(1)	Gives rulemaking authority to adopt rules to implement the agricultural and wildlife damage prevention policy which shall be administered by the department.
Section 4-23-107	Rulemaking is implied and this rule addresses the process for the fee that is collected under Chapter 23.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>	
The Department of Agriculture and Food (department) has not received any public comments since the last five-year review of this rule.	

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

The department would like this rule to continue because it provides information for the guidelines on the procedures and timelines for collecting the agriculture and wildlife damage prevention fees. The department uses the collected funds to implement the damage prevention policy throughout the state to protect agricultural producers' livestock from predatory animals.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Commissioner, Kelly Pehrson	<b>Date:</b>	07/07/2025
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**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule number:</b>	<b>R251-104</b>	<b>Filing ID: 50352</b>
<b>Effective date:</b>	<b>07/15/2025</b>	

**Agency Information**

<b>1. Title catchline:</b>	Corrections, Administration	
<b>Building:</b>	Utah Department of Corrections	
<b>Street address:</b>	14717 S Minuteman Dr	
<b>City, state:</b>	Draper, UT	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Dan Blanchard	801-400-7797	danblanchard@utah.gov
Tyler Johnson	385-228-9883	tajohnson@utah.gov

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

**General Information**

<b>2. Rule catchline:</b>	
R251-104. Declaratory Orders	
<b>3. Statutory provisions that authorize or require this rule and an explanation of those particular statutory provisions:</b>	
Section 63G-3-201	The rule is required based on specific legislation.
Section 63G-4-503	This section requires state agencies to issue rules for declaratory orders.
Subsection 64-13-10	This section grants the Department of Corrections (department) general rule making authority.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>	
The department has not received any written comments regarding this rule since the last five-year review.	
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>	
This rule is required by specific legislation in Section 63G-4-503. This section requires state agencies to issue rules for declaratory orders, including additional specific provisions from the section.	

## Agency Authorization Information

<b>Agency head or designee and title:</b>	Jared Garcia, Executive Director	<b>Date:</b>	05/05/2025
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## NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

<b>Rule number:</b>	<b>R251-709</b>	<b>Filing ID: 50367</b>
<b>Effective date:</b>	<b>07/15/2025</b>	

## Agency Information

<b>1. Title catchline:</b>	Corrections, Administration	
<b>Building:</b>	Utah Department of Corrections	
<b>Street address:</b>	14717 S Minuteman Dr	
<b>City, state:</b>	Draper, UT	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Dan Blanchard	801-400-7797	danblanchard@utah.gov
Tyler Johnson	385-228-9883	tajohnson@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

## General Information

<b>2. Rule catchline:</b>	
R251-709. Transportation of Inmates	
<b>3. Statutory provisions that authorize or require this rule and an explanation of those particular statutory provisions:</b>	
Section 63G-3-201	The rule is required due to agency action meeting specific criteria, including criteria listed under Subsection (2).
Section 64-13-10	This section grants the Department of Corrections (department) general rule making authority.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>	
The department has not received any written comments regarding this rule since the last five-year review.	
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>	
This rule is required by agency action listed in Subsection 63G-3-201(2), specifically, the rule provides for safety and security of inmates and the public by allowing the department to set requirements on people outside of UDC (visitors, attorneys, and medical personnel) during transportation of inmates.	

## Agency Authorization Information

<b>Agency head or designee and title:</b>	Jared Garcia, Executive Director	<b>Date:</b>	07/03/2025
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## NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

<b>Rule number:</b>	<b>R356-1</b>	<b>Filing ID: 56827</b>
<b>Effective date:</b>	<b>07/02/2025</b>	

**Agency Information**

<b>1. Title catchline:</b>	Governor, Criminal and Juvenile Justice (State Commission on)	
<b>Building:</b>	Utah State Capitol, Senate Building	
<b>Street address:</b>	350 N. State Street	
<b>City, state:</b>	Salt Lake City, Utah	
<b>Mailing address:</b>	PO Box 142330	
<b>City, state and zip:</b>	Salt Lake City, Utah 84114-2330	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angelo Perillo	801-538-1047	aperillo@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

**General Information**

<b>2. Rule catchline:</b>	
R356-1. Procedures for Administering the County Correctional Facility Reimbursement Program	
<b>3. Statutory provisions that authorize or require this rule and an explanation of those particular statutory provisions:</b>	
Subsection 64-13e-104(5)	This statute gives the Criminal and Juvenile Justice Commission rulemaking authority to administer Section 64-13e-104, including establishing requirements and procedures for collecting data from counties for the purpose of completing the calculations.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>	
No comments have been received since the last five-year review of this rule.	
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>	
This is a process mandated by statute and is currently active.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tom Ross, Executive Director	<b>Date:</b>	07/02/2025
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**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule number:</b>	<b>R356-2</b>	<b>Filing ID: 57029</b>
<b>Effective date:</b>	<b>07/02/2025</b>	

**Agency Information**

<b>1. Title catchline:</b>	Governor, Criminal and Juvenile Justice (State Commission on)	
<b>Building:</b>	Senate Building (at State Capitol)	
<b>Street address:</b>	350 North State Street	
<b>City, state:</b>	Salt Lake City, Utah	
<b>Mailing address:</b>	PO Box 142330	
<b>City, state and zip:</b>	Salt Lake City, Utah 84114-2330	

## FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angelo Perillo	801-538-1047	aperillo@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

## General Information

<b>2. Rule catchline:</b>	
R356-2. Judicial Nominating Commissions	
<b>3. Statutory provisions that authorize or require this rule and an explanation of those particular statutory provisions:</b>	
Section 78A-10a-201	This statute requires the Criminal and Juvenile Justice Commission to enact rules establishing procedures for meetings of a Judicial Nominating Commission.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>	
No comments have been received since the last five-year review of this rule.	
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>	
This rule describes the procedures for meetings of the Judicial Nominating Commissions and the standards, criteria, and procedures for the judicial nominating process.	

## Agency Authorization Information

<b>Agency head or designee and title:</b>	Tom Ross, Executive Director	<b>Date:</b>	07/11/2025
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## NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION

<b>Rule number:</b>	<b>R450-4</b>	<b>Filing ID: 54427</b>
<b>Effective date:</b>	<b>07/15/2025</b>	

## Agency Information

<b>1. Title catchline:</b>	Cultural and Community Engagement, Administration	
<b>Street address:</b>	3760 S Highland Dr	
<b>City, state:</b>	Salt Lake City, UT 84106	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Heidi Tak	801-698-5567	hjtak@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

## General Information

<b>2. Rule catchline:</b>	
R450-4. Multicultural Commission	
<b>3. Statutory provisions that authorize or require this rule and an explanation of those particular statutory provisions:</b>	
Section 9-21-301	Creates the Multicultural Commission (commission), establishes membership, and grants rulemaking authority.
Section 9-21-302	Sets forth the commission's duties.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

No comments have been received since the last five-year review of this rule.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

The commission has regular duties and meetings and Rule R450-4 establishes procedures.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Donna Law, Executive Director	<b>Date:</b>	07/15/2025
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**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule number:</b>	<b>R628-15</b>	<b>Filing ID: 51521</b>
<b>Effective date:</b>	<b>07/07/2025</b>	

**Agency Information**

<b>1. Title catchline:</b>	Money Management Council, Administration	
<b>Building:</b>	State Capitol Building	
<b>Street address:</b>	350 N. State Street, Ste 180	
<b>City, state:</b>	Salt Lake City, UT	
<b>Mailing address:</b>	PO Box 2315	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-2315	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ann Pedroza	801-538-1883	apedroza@utah.gov

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

**General Information**

<b>2. Rule catchline:</b>	
R628-15. Certification as an Investment Adviser	
<b>3. Statutory provisions that authorize or require this rule and an explanation of those particular statutory provisions:</b>	
Subsection 51-7-3(3)	This is the definition of a certified investment adviser and requires that an investment adviser be certified by the director of the Securities Division as having met the criteria of Money Management Council (council) rule.
Subsection 51-7-11.5(3)	Requires certified investment advisers meet the requirements of council rule.
Subsection 51-7-18(2)	Gives the council the authority to make rules governing certified investment advisers and provides requirements for the regulation and qualification of certified investment advisers.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>	
There have been no written comments received regarding this rule since the last five-year review.	

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule needs to be continued to provide requirements for certification which include insurance coverage, minimum accounting standards, forum and methods for dispute resolution, and requiring investment advisers to be familiar with the Act and rules of the council to help protect and safeguard public funds as there are millions of dollars being invested by certified investment advisers on behalf of public entities in the state of Utah. The council reviewed this rule in the last meeting and agreed that the requirements for certification are needed and that the rule is up to date.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Scott R. Burnett, Council Vice Chair	<b>Date:</b>	07/07/2025
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**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule number:</b>	<b>R661-21</b>	<b>Filing ID: 53000</b>
<b>Effective date:</b>	<b>07/09/2025</b>	

**Agency Information**

<b>1. Title catchline:</b>	Navajo Trust Fund, Trustee	
<b>Building:</b>	Blanding Government Services Building	
<b>Street address:</b>	151 E. 500 N.	
<b>City, state:</b>	Blanding, UT 84511	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Maury Bergman	435-678-1462	mbergman@utah.gov
Tony Dayish	435-678-1468	tdayish@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule catchline:</b>	
R661-21. Electronic Meetings	
<b>3. Statutory provisions that authorize or require this rule and an explanation of those particular statutory provisions:</b>	
Subsection 51-10-205(4)	The trust administrator shall make rules in accordance with Subsection (6) that establish policies and criteria for expenditures of fund money.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>	
No comments have been received since the last five-year review of this rule from interested persons.	
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>	
This rule should be continued because it allows the Utah Navajo Trust Fund to conduct board and Diné Advisory Committee meetings by electronic means.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tony Dayish, Administrator	<b>Date:</b>	07/01/2025
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**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule number:</b>	<b>R661-23</b>	<b>Filing ID: 53001</b>
<b>Effective date:</b>	<b>07/09/2025</b>	

**Agency Information**

<b>1. Title catchline:</b>	Navajo Trust Fund, Trustees	
<b>Building:</b>	Blanding Government Services Building	
<b>Street address:</b>	151 E. 500 N.	
<b>City, state:</b>	Blanding, UT 84511	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Maury Bergman	435-678-1462	mbergman@utah.gov
Tony Dayish	435-678-1468	tdayish@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule catchline:</b>	
R661-21. Adult Education Program	
<b>3. Statutory provisions that authorize or require this rule and an explanation of those particular statutory provisions:</b>	
Subsection 51-10-205(4)	The trust administrator shall make rules in accordance with Subsection (6) that establish policies and criteria for expenditures of fund money.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>	
No comments have been received since the last five-year review of this rule from interested persons.	
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>	
This rule should be continued because it allows the Utah Navajo Trust Fund to provide financial assistance for eligible Utah Navajo students nearing completion of a Graduate Equivalency Degree or the General Education Development (GED).	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Tony Dayish, Administrator	<b>Date:</b>	07/01/2025
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**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule number:</b>	<b>R747-1</b>	<b>Filing ID: 52739</b>
<b>Effective date:</b>	<b>07/07/2025</b>	

**Agency Information**

<b>1. Title catchline:</b>	Public Service Commission, Utility Facility Review Board	
<b>Building:</b>	Heber M. Wells Building	
<b>Street address:</b>	160 E 300 S, 4th Floor	
<b>City, state:</b>	Salt Lake City, UT	
<b>Mailing address:</b>	PO Box 4558	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-4558	

## FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Michael Hammer	801-530-6729	michaelhammer@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule catchline:</b>	
R747-1. Utility Facility Review Board Rule	
<b>3. Statutory provisions that authorize or require this rule and an explanation of those particular statutory provisions:</b>	
Section 54-14-104	This section authorizes the Utility Facility Review Board (board) to adopt rules governing proceedings before the board.
Subsection 52-4-207(2)	This section precludes a public body from holding an electronic meeting unless the public body has adopted a rule governing the use of electronic meetings.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>	
No comments have been received since the last five-year review of this rule.	
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>	
The Utility Facility Review Board Act created the board for the purpose of resolving certain disputes between local governments and public utilities. Section 54-14-101, et seq. a public body may not hold electronic meetings unless it has adopted a rule governing the use of such meetings. Subsection 52-4-207(2). members of the board may not be centrally located, and allowing electronic meetings where appropriate allows the board to act promptly and operate in a more efficient manner. This rule is, therefore, necessary to allow the board to conduct electronic meetings where necessary or appropriate.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jerry D. Fenn, PSC Chair	<b>Date:</b>	07/07/2025
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**NOTICE OF FIVE-YEAR REVIEW AND STATEMENT OF CONTINUATION**

<b>Rule number:</b>	<b>R940-6</b>	<b>Filing ID: 56222</b>
<b>Effective date:</b>	<b>07/10/2025</b>	

**Agency Information**

<b>1. Title catchline:</b>	Transportation Commission, Administration	
<b>Building:</b>	Calvin Rampton	
<b>Street address:</b>	4501 S. 2700 W.	
<b>City, state:</b>	Taylorsville, UT	
<b>Mailing address:</b>	P.O. Box 148455	
<b>City, state and zip:</b>	Salt Lake City, Utah 84114-8455	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Leif Elder	801-580-8296	lelder@utah.gov
Marlene Galindo	801-965-4026	mgalindo1@utah.gov
James Godin	801-573-7181	jamesjgodin@agutah.gov

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Lori Edwards	385-341-3414	loriedwards@agutah.gov
Please address questions regarding information on this notice to the persons listed above.		

**General Information**

<b>2. Rule catchline:</b>	
R940-6. Prioritization of New Transportation Capacity Projects	
<b>3. Statutory provisions that authorize or require this rule and an explanation of those particular statutory provisions:</b>	
Section 72-1-304	This section requires the Transportation Commission to develop a written prioritization process for new transportation capacity projects.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>	
No comments have been received since the last five-year review of this rule.	
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>	
The statute still requires the Transportation Commission to have a prioritization process, in writing, for new transportation capacity projects.	

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Carlos M. Bracerias, P.E., Executive Director, UDOT	<b>Date:</b>	07/10/2025
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**End of the Five-Year Notices of Review and Statements of Continuation Section**

## NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a **NOTICE OF FIVE-YEAR REVIEW EXTENSION (EXTENSION)** with the Office of Administrative Rules. The **EXTENSION** permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed **EXTENSIONS** for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date.

**EXTENSIONS** are governed by Subsection 63G-3-305(6).

NOTICE OF FIVE-YEAR REVIEW EXTENSION		
Rule number:	R251-102	Filing ID: 50344
New deadline date:	11/17/2025	

### Agency Information

1. Title catchline:	Corrections, Administration	
Building:	Administration Building	
Street address:	14717 S. Minuteman Dr.	
City, state:	Draper, UT	
Contact persons:		
Name:	Phone:	Email:
Dan Blanchard	801-400-7797	danblanchard@utah.gov
Tyler Johnson	385-228-9883	tajohnson@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

### General Information

2. Rule catchline:
R251-102. Release of Communicable Disease Information
3. Reason for requesting the extension:
This rule should be enacted under the Department of Health and Human Services (DHHS). Medical care for inmates in Utah Department of Corrections custody transferred to DHHS effective July 1, 2022. The extension will provide additional time for DHHS to propose a new rule.

### Agency Authorization Information

Agency head or designee and title:	Jared Garcia, Executive Director	Date:	06/30/2025
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NOTICE OF FIVE-YEAR REVIEW EXTENSION		
Rule number:	R251-110	Filing ID: 50351
New deadline date:	12/15/2025	

**Agency Information**

<b>1. Title catchline:</b>	Corrections, Administration	
<b>Building:</b>	Administration Building	
<b>Street address:</b>	14717 S. Minuteman Dr.	
<b>City, state:</b>	Draper, UT	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Dan Blanchard	801-400-7797	danblanchard@utah.gov
Tyler Johnson	385-228-9883	tajohnson@utah.gov
<b>Please address questions regarding information on this notice to the persons listed above.</b>		

**General Information**

<b>2. Rule catchline:</b>
R251-110. Sex and Kidnap Offender Registration Program
<b>3. Reason for requesting the extension:</b>
This rule should be established under the Department of Public Safety (DPS), Bureau of Criminal Information. Statutory administration of the registry program was moved to DPS effective July 1, 2024. The Department of Corrections requests an extension to provide more time to review with DPS and enact a new rule.

**Agency Authorization Information**

<b>Agency head or designee and title:</b>	Jared Garcia, Executive Director	<b>Date:</b>	06/30/2025
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**End of the Notices of Five-Year Review Extensions Section**

## NOTICES OF FIVE-YEAR EXPIRATIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). The Office of Administrative Rules (Office) is required to notify agencies of rules due for review at least 180 days prior to the anniversary date. If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a **NOTICE OF FIVE-YEAR EXTENSION (EXTENSION)** with the Office. However, if the agency fails to file either the **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION** or the **EXTENSION** by the date provide by the Office, the rule expires.

Upon expiration of the rule, the Office files a **NOTICE OF FIVE-YEAR EXPIRATION (EXPIRATION)** to document the action. The Office is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule and it must follow regular rulemaking procedures to replace the rule if it is still needed.

The Office has filed **EXPIRATIONS** for each of the rules listed below which were not reviewed in accordance with Section 63G-3-305. These rules have expired and have been removed from the *Utah Administrative Code*.

The expiration of administrative rules for failure to comply with the five-year review requirement is governed by Subsection 63G-3-305(8).

NOTICE OF EXPIRED RULE		
Rule Number:	R156-60d	Filing ID: 56217
Effective Date:	07/15/2025	

### Agency Information

1. Title catchline:	Commerce, Professional Licensing	
Building:	Heber M. Wells Building	
Street address:	160 E 300 S.	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 146741	
City, state and zip:	Salt Lake City, UT 84111	
Contact person(s):		
Name:	Phone:	Email:
Nancy L. Lancaster	801-657-1644	rulesonline@utah.gov

### General Information

2. Title of rule (catchline):
R156-60d. Substance Use Disorder Counselor Act Rule
3. Summary:
Rule R156-60d expired because a five-year review was not submitted before expiration. The agency plans to submit an emergency rule to be in effect until a permanent rule is put in place.

**End of the Notices of Notices of Five-Year Expirations Section**

## NOTICES OF RULE EFFECTIVE DATES

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State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

**NOTICES OF EFFECTIVE DATE** are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

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### Agriculture and Food

#### Conservation Commission

No. 57165 (Repeal) R64-3: Utah Environmental Stewardship Certification Program (UESCP), a.k.a. Agriculture Certificate of Environmental Stewardship (ACES)

Published: 6/1/2025

Effective: 7/8/2025

#### Specialized Products

No. 57193 (Repeal) R66-32: Industrial Hemp Testing Laboratory

Published: 6/15/2025

Effective: 7/25/2025

No. 57227 (Repeal) R66-37: Industrial Hemp Research

Published: 6/15/2025

Effective: 7/25/2025

#### Regulatory Services

No. 57167 (Amendment) R70-910: Weights and Measures Requirements

Published: 6/1/2025

Effective: 7/8/2025

### Auditor

#### Administration

No. 57130 (Amendment) R123-7: Required Governmental Entities' Posting of Financial Information to Transparent Utah, formerly known as the Utah Public Finance Website

Published: 6/1/2025

Effective: 7/9/2025

### Commerce

#### Professional Licensing

No. 57115 (Amendment) R156-9: Funeral Service Licensing Act Rule

Published: 5/15/2025

Effective: 7/23/2025

No. 57192 (Amendment) R156-40: Recreational Therapy Practice Act Rule

Published: 6/15/2025

Effective: 7/22/2025

## NOTICES OF RULE EFFECTIVE DATES

No. 57161 (Amendment) R156-64: Deception Detection Examiners Licensing Act Rule  
Published: 6/1/2025  
Effective: 7/8/2025

### Crime Victim Reparations

#### Administration

No. 57077 (Repeal) R270-5: Electronic Meetings  
Published: 4/1/2025  
Effective: 7/14/2025

No. 57078 (Repeal) R270-6: Recusal of a Board Member for a Conflict of Interest  
Published: 4/1/2025  
Effective: 7/14/2025

### Education

#### Administration

No. 57179 (Amendment) R277-113: LEA Fiscal and Auditing Policies  
Published: 6/1/2025  
Effective: 7/8/2025

No. 57180 (Amendment) R277-331: Stipends for Future Educators  
Published: 6/1/2025  
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No. 57181 (Amendment) R277-407: School Fees  
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No. 57182 (Amendment) R277-474: School Instruction and Sex Education  
Published: 6/1/2025  
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No. 57183 (Amendment) R277-487: Public School Data Confidentiality and Disclosure  
Published: 6/1/2025  
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No. 57184 (Amendment) R277-497: School Accountability System  
Published: 6/1/2025  
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No. 57185 (Repeal) R277-725: Statewide Online Education Program Contractor Requirements  
Published: 6/1/2025  
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No. 57186 (Amendment) R277-920: School Improvement and Leadership Development  
Published: 6/1/2025  
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### Environmental Quality

#### Air Quality

No. 57035 (Amendment) R307-110: Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits  
Published: 3/1/2025  
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No. 57035 (Amendment-CPR) R307-110: Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits  
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Government Operations

Finance

No. 57094 (Amendment) R25-7: Travel-Related Reimbursements for State Travelers

Published: 5/1/2025

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No. 57168 (Repeal) R25-21: Medical Cannabis Payment Provider Standards

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No. 57169 (Repeal) R25-22: Financial Institution Validation for Access to Medical Cannabis Inventory Control System

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Human Resource Management

No. 57138 (Amendment) R477-1: Definitions

Published: 5/15/2025

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No. 57139 (Amendment) R477-2: Administration

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No. 57140 (Amendment) R477-3: Classification

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No. 57141 (Amendment) R477-4: Filling Positions

Published: 5/15/2025

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No. 57142 (Amendment) R477-5: Employee Status and Probation

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No. 57143 (Amendment) R477-6: Compensation

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No. 57144 (Amendment) R477-7: Leave

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No. 57205 (Amendment) R477-8: Working Conditions

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No. 57145 (Amendment) R477-10: Employee Development

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No. 57146 (Amendment) R477-15: Workplace Harassment Prevention

Published: 5/15/2025

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Health and Human Services

Administration

No. 57118 (Repeal) R380-808: Fatality Review Act

Published: 5/15/2025

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## NOTICES OF RULE EFFECTIVE DATES

### Integrated Healthcare

No. 57119 (Repeal) R414-1C: Coronavirus Public Health Emergency Period

Published: 5/15/2025

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No. 57149 (Repeal) R414-200: Non-Traditional Medicaid Health Plan Services

Published: 5/15/2025

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No. 57150 (Amendment) R414-312: Public Health Emergency Provisions

Published: 5/15/2025

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No. 57152 (Amendment) R414-504: Principles of Facility Case Mix Rates and Other Payments

Published: 5/15/2025

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No. 57153 (Amendment) R414-516: Nursing Facility Non-State Government-Owned Upper Payment Limit Quality Improvement Program

Published: 5/15/2025

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### Population Health, Primary Care and Rural Health

No. 56998 (Amendment) R434-40: Utah Health Care Workforce Financial Assistance Program

Published: 1/15/2025

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No. 56998 (Amendment-CPR) R434-40: Utah Health Care Workforce Financial Assistance Program

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### Data, Systems and Evaluation, Vital Records and Statistics

No. 57148 (Amendment) R436-3: Amendments and Corrections to Vital Records

Published: 5/15/2025

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### Human Services Program Licensing

No. 57159 (Amendment) R501-12: Foster Care Services

Published: 5/15/2025

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No. 57120 (Amendment) R501-14: Human Service Program Background Screening

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### Services for People with Disabilities

No. 57151 (Repeal) R539-11: Strategy Report Advisory Committee

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No. 57117 (New Rule) R539-13: Division Definitions

Published: 5/15/2025

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### Juvenile Justice and Youth Services

No. 57154 (Amendment) R547-11: Guidelines for the Transfer to the Department of Corrections of a Minor Provisionally Housed in a Juvenile Justice Services Secure Care Facility

Published: 5/15/2025

Effective: 7/1/2025

Higher Education (Utah Board of)

Administration

No. 57195 (Amendment) R765-119: Utah Board of Higher Education Qualifications

Published: 6/15/2025

Effective: 7/24/2025

No. 57157 (Repeal and Reenact) R765-609: Regents' Scholarship

Published: 5/15/2025

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No. 57163 (Repeal) R765-613: Public Safety Officer Career Advancement Reimbursement Program

Published: 6/1/2025

Effective: 7/24/2025

Natural Resources

Wildlife Resources

No. 57171 (Amendment) R657-5: Taking Big Game

Published: 6/1/2025

Effective: 7/8/2025

No. 57172 (Amendment) R657-43: Landowner Permits

Published: 6/1/2025

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No. 57174 (New Rule) R657-55a: Wildlife Expo Permits

Published: 6/1/2025

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Public Safety

Driver License

No. 57173 (Amendment) R708-41: Requirements for Acceptable Documentation, Storage, and Maintenance

Published: 6/1/2025

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Transportation Commission

Administration

No. 57226 (New Rule) R940-12: County of the First Class Infrastructure Bank Fund

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Effective: 7/22/2025

**End of the Notices of Rule Effective Dates Section**