

January 17, 2014

**PUBLIC COMMENTS AND RIDEM RESPONSES
REGARDING 2013 AMMENDMENTS to the RULES AND REGULATIONS FOR
HAZARDOUS WASTE MANAGEMENT**

The following are a compilation of comments received in writing (including email). In the interest of brevity, when comments were received orally at the hearing and in later in writing, the comments in writing are included. For readability, comments were numbered, and re-formatted. The Department’s responses are shown in red and italicized.

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The Department has reviewed the following comments and has, where appropriate made changes to the Regulations as explained in the responses. These changes represent either clarifications or changes to accommodate specific situations. The Department has determined that none of the rule changes constitute a major change to the Draft Regulations that were issued for public notice on November 15, 2013.

GENERAL RESPONSE TO COMMENTS

1. Recognition of Small Quantity Generators (SQG's) and Conditionally Exempt Small Quantity Generator (CESQG) Status

The most significant change in the regulations was the recognition of Small Quantity and Conditionally Exempt Small Quantity Generator Status. While the Department received numerous comments on exactly what standards should be applied to these generators, there was widespread agreement across the spectrum of commenters, from environmental groups, consultants and industry that to recognize and regulate these categories of generators differently was a good idea.

2. Requirement that Paint Collection Centers be Classified as LQG's

A number of commenters across the spectrum from the construction industry, paint care and environmental groups agreed that the new flexibility granted in these regulations to SQG's and CESQG's should be granted to Paint Collection Centers if their total quantity of hazardous waste generated falls under the thresholds described in Section 3. The Department finds the evidence submitted to be convincing that to allow this flexibility will benefit the environment by allowing more Paint Collection Centers to open, giving residents and small businesses more readily available locations to dispose of waste paint, resulting in less improper disposal and low fuel consumption. The Department has also considered that given the limited universe of hazardous waste (oil based paint) stored at these facilities, the need for training and written contingency plans is much lower than for facilities that accept other hazardous wastes. For the reasons, mentioned above, the Department has decided that these requirement will be removed from the rules.

The Department decided to keep the LQG requirement for Community Collection Centers and Household Hazardous Waste Facilities. This decision is based on the conclusion that these centers are expected to handle a larger volume and variety of hazardous wastes. The Department feels that LQG requirements would necessitate more training, contingency planning and safeguards on the storage of incompatible waste that are appropriate in this setting.

The Department is not taking the additional step of exempting all oil based paint from generator status calculations or exempting Paint Collection Centers from generator rules. The Department is concerned that to ignore all generator requirements or to only require the very minimal requirements of CESQG to facilities that may collect extremely large quantities of waste may have unintended consequences. The Department has enforced cases where businesses speculatively accumulated waste paint and ceased operation leaving thousands of gallons of waste paint behind. The Department also feels that the storage restrictions (such as aisle spacing and labeling) on flammable waste such as oil based paints, serve the public in the event of an emergency.

3. Requirement that CESQG's receive EPA ID Numbers

There has been some confusion among commenters that the Department had created a requirement that all generators, other than households, must obtain an EPA ID number from the Department. This is not the case, the requirement exists in the current regulations and has existed since their inception. The current draft significantly reduces the burden by creating the new SQG and CESQG requirement as discussed above. However, as with other paint collection issues,

many commenters felt that we have not gone far enough and should exempt CESQG's from the requirement to obtain EPA ID numbers.

The Department is concerned that if there are not unique numbers to identify a CESQG's on manifest records, there is no reasonable way to verify their status on manifest records. Therefore companies may produce waste quantities sufficient to be considered SQG's or even LQG's, but avoid detection by not using a unique numbers to identify themselves. Massachusetts DEP is trying to avoid this problem by having CESQG's use phone numbers. This approach has proven to be difficult in a time when changing phone numbers, and multiple phone numbers are common occurrences.

After much consideration, the Department has decided to exempt CESQGs that only generate waste architectural paints and dispose of the waste paint at Paint Collection Centers or Community Collection Centers from the requirement to obtain ID number. This decision is based upon the belief that the subject activity will be carefully monitored under the auspices of the paint stewardship program that will be reviewed and approved by the Department.

4. Hazardous Waste Fee and Paint Collection Centers

As a result of comments, the Department has reexamined the practicality of having the Paint Collection Centers and Community Collection Centers track, for eventual payment of the hazardous waste fee, paint collected from CESQG's versus paint collected from homeowners that is already exempt from the generator fee requirements. Upon consideration, this approach does not seem practical. Therefore the Department has proposed elimination of this fee for architectural paint (which is the only hazardous waste that Paint Collection Centers will collect).

5. Chemotherapy Waste

The Department believed that the current definitions of Rhode Island Waste is too vague and difficult to apply, especially in a healthcare setting where data such as Oral Rat LD₅₀ are not readily available. As USEPA has not updated the waste classifications of drugs since 1982, the Department is concerned that the disposal of some very hazardous substances could be unregulated. We decided to replace it with something more practical; hence the decision to regulate the disposal of chemotherapy drugs. We received a number of comments from those knowledgeable in pharmaceutical management that the classification of "chemotherapy drugs" was too vague and could regulate drugs given to alleviate symptoms that have very little toxicity. Hence the Department modified the definition as shown below to be more specific and take out the need to petition the Department regarding chemotherapy drugs that are not toxic:

contains chemotherapy agents that are antineoplastic or cytotoxic, including but not limited to drugs listed in the NIOSH list of Antineoplastic and Other Hazardous Drugs (<http://www.cdc.gov/niosh/docs/2012-150/pdfs/2012-150.pdf>).

6. Aisle Space

The Department received several comments regarding the issue of aisle space. Specifically, the draft rules referenced a 48 inch requirement whereas federal rules only require three feet of space between rows of drums. After consideration of the issue, the Department has decided that 3 feet is adequate. Also, it was pointed out that the wording was ambiguous and could be interpreted to

require 3 feet (or 4 feet) between each drum. This was not the intent and the regulations were clarified to indicate the 3 foot rule is applied to space between rows of drums.

SPECIFIC COMMENTS AND DEPARTMENT RESPONSES

Below is the text of comments received with Department responses in red italics.

1. Alison Keane, Vice President of Government Affairs for the American Coatings Association (ACA).

Received by email 12/15/2013.

Note: A slightly abbreviated version of this comment was hand delivered by Jeff Taylor of the American Coatings Association at the hearing on 12/9/2013.

Dear Mr. Dennen:

The American Coatings Association (ACA) and PaintCare are submitting these comments to the above referenced rulemaking (Rule). ACA is a voluntary, nonprofit trade association that represents paint and coatings manufacturers, raw materials suppliers, distributors, and technical professionals in the industry. ACA serves as an advocate and ally for members on legislative, regulatory and judicial issues. As part of its member services, ACA created the PaintCare program, for which these regulations will have a direct impact. In fact, through legislation in 2012, the State mandated that regulations be promulgated to ensure the successful implementation of the PaintCare program. Unfortunately, the draft regulations fall short of what is needed to do so.

PaintCare is the industry's product stewardship organization dedicated to the collection and recycling of post-consumer architectural paint. PaintCare is the non-profit organization that the ACA started to serve as the paint and coatings industry's product stewardship organization for post-consumer architectural paint that is in everyone's basements, sheds, and garages. It is also a waste stream that as a liquid cannot go into the landfill and in the case of oil based paint, presents a flammability hazard. Thus, it is a special waste and most often handled by municipal Household Hazardous Waste Programs, or through organizations like the Rhode Island Resource Recovery Corporation (RIRRC). PaintCare's mission is to relieve the burden on municipal and state programs by providing an industry program or an extended responsibility program for the end of life of our products.

Paint is often the number one product coming into Household Hazardous Waste (HHW) programs, and makes up the majority of the costs and burdens to these programs. Given limited budgets, many programs have stopped taking latex paint, which is 80% of the market, and instead tell residents to dry and dispose of it in the garbage. If you have ever tried to do so – it is not easy. It takes a long time and if you have kids or pets or are in an apartment complex, it is not a easy feat to accomplish. Even if you have the ability to do so or mix it with cat litter or other absorbent materials to do so more easily, you are then precluded from recycling the steel or plastic container. HHW programs that do accept all paint are often only open a few times a month or a few times a year and are generally not available to small businesses. Thus, PaintCare was formed to put in place a program where households and businesses could conveniently drop off all unused paint for recycling and proper disposal.

The way the program has accomplished this is to provide collection and recycling services for leftover or unwanted paint brought to HHW programs. This reduces program costs for the paint management and collection sites. In addition, it provides more convenient access for recycling.

The more convenient you make the program for the consumer, the more likely they are to use the program. HHW programs are an integral part of the program, but we use primarily paint retail stores to expand the collection infrastructure. The regulations as currently drafting would effectively prohibit both types of collection sites from participating in the program.

As drafted, the regulations would not only make paint collection centers, whether RIRRC or retail and local transfer stations, large quantity generators of hazardous waste; it would add burdens to small businesses trying to use the program by mandating that they also register as generators of hazardous waste, obtain an EPA ID number and report on all paint dropped off. The purpose of the regulation and the underlying statutory mandate for such was to recognize small businesses as conditionally exempt small quantity generators – so that they could use the program without undue burden and costs and so that RIRRC and other PaintCare collection facilities can collect this paint and have it recycled or properly disposed. Any increased burden or cost, or quite frankly even the perception of becoming a hazardous waste management facility is going to act as a deterrent to signing up collection sites and getting this waste out of the solid waste stream. Simply put – if the PaintCare program is going to make a HHW program, transfer station, or retail outlet a generator of hazardous waste by virtue of their voluntary service of a collection site – they will not volunteer for that service. Similarly, if a painting contractor has to get a hazardous waste EPA ID, before utilizing the PaintCare system, when they never had to do so before – they will not use the system.

ACA and PaintCare are not asking for complete exemptions from all applicable waste laws – we merely want to be able to follow the federal Resource Conservation and Recovery Act standard and take latex paint from any source as it is non-hazardous and oil-based paint, which is hazardous because of its ignitibility, from households and small businesses. The purpose of the regulation was to recognize, as the federal RCRA does, that small business generators (those that produce less than approximately 26 gallons a month of hazardous waste) should be exempt from the majority of regulations that small or large quantity generators are subjected to. As written, however, these regulations would not only make those small businesses into large quantity generators; but they would make the retail and transfer stations collection sites large quantity generators as well. This would be a significant change for these businesses, which usually fall well below the threshold for hazardous waste generator status. As they will now be subjected to more stringent hazardous waste regulations as well as the liability, cost, recordkeeping and reporting attached to this status, the regulations as written will work as an effective deterrent to facilities contracting with PaintCare to be collection sites as well as small businesses utilizing the program. Thus, the purpose of the legislation enacting the paint recycling program in Rhode Island will be completely thwarted.

The Rhode Island statute implementing the program, as well as PaintCare's own contracts, contain the necessary safe guards for collection programs this will be included as part of the Program Plan submitted for approval by the Department. The oil based paint that will be collected is only 20% of the market place and that market is shrinking every year. In addition, in the case of retailers, they are selling the same product out the front of their stores without regulation that they would now be regulated for taking back. The collection of these products simply presents too low of a risk for the stringent requirements now contained in the draft regulations. However, this material clearly should not be put in the trash, dumped on the side of the road, or thrown into our waterways. This is the material you want to make sure to collect and properly manage. Thus, we do not want to discourage, as the draft regulations do, the RIRRC, transfer stations and retail stores from acting as collection sites and small businesses from using the program.

PaintCare started in Oregon in 2010, and is now operating in 3 states with 4 more slated for the next two years, including Rhode Island. In three years in Oregon, we have established over 100 collection sites for paint – over 80% of these are retail and the rest are HHW programs. These sites are distributed throughout the state, with 95% of the population within 15 miles of a collection location. There are currently 30+ additional retail sites that will begin serving as collection locations in 2014 as PaintCare expands the program. So consumers and contractors can bring their leftover paint back to the same places they buy paint. And since the stores are open 6 to 7 days a week, retail hours, residents have more convenient access to collection than they typical do at HHW sites, which are often only open limited days and hours. A Product Stewardship Institute report on the Oregon program found that paint retailers find since serving as a collection sites provides a community service that instills customer loyalty, and if residents are coming into the store to drop-off paint, it provides additional foot traffic for increased sales. Paint retailers in Oregon do not have to comply with any more stringent hazardous waste regulations than EPA's RCRA.

In Oregon, PaintCare has collected approximately two million gallons of paint, recycling or beneficially reusing 100%. PaintCare also recycled over 107 tons of plastic pails and 131 tons of metal cans during the three year period. Finally, the program is designed to relieve a considerable financial burden on the HHW programs, like RIRRC and Portland (Oregon) Metro reports that the total benefit of PaintCare for their program is in excess of one million dollars annually. The PSI report found that the majority of HHW programs cited cost savings as a benefit of the program as well as an increase in paint collection overall; fewer incidences of improperly discarded paint in their communities; increased number of visits from residents; and a heightened sense of community and empowerment to “do the right thing.” So municipal HHW programs benefit greatly from the PaintCare program as well as the residents they serve.

In California where the program began just over a year ago, PaintCare opened 350 collection sites on the first day utilizing paint retailers. Today, the program has over 500 sites and includes municipal governments and transfer stations as well as retailers. This was accomplished by changing the California law to allow for the collection of paint from residents and conditionally exempt small quantity generators at both retail and HHW without additional hazardous waste generator requirements, as long as the collection locations were under an approved stewardship plan. Conditionally exempt small businesses can take advantage of the program without any additional requirements beyond certification. In nine months of program operations, over 600,000 gallons have been collected and recycled or beneficially reused.

Connecticut started this summer and hit its convenience standard within the first few months with more than 80 retailers signed up and 20 transfer stations. We have since added municipal HHW sites as well. Connecticut also did not place overly restrictive burdens on collection sites; conditionally exempt small businesses are allowed to use the program just like households. Again, Oregon, California and Connecticut were not placed under additional regulations in order to participate in the program.

ACA and PaintCare want to implement the program Rhode Island as we have in other states – making it as easy and convenient for all consumers, whether household or small business, as possible – which means allowing facilities to serve as collection sites without the unnecessary requirements, liability and cost of becoming a large quantity generator to do so; nor acting as an enforcement agency when a small business contractor wants to drop off unused paint. Thus, we have provided the suggested changes to the rulemaking (attached herein and incorporated by reference) and in advance, thank you for your consideration.

Sincerely,

Alison A. Keane, Esq. Laura Panciera
Vice President, ACA Rhode Island Program Coordinator, General Counsel, PaintCare PaintCare

Attachment 1 – Rule Changes

Rule 3

Definitions. In order to accommodate paint retailers paint stores as well as transfer stations, which may be municipal or private, as paint collection centers, which also may collect other products as well, to accommodate the collection of water-based architectural coatings (non-hazardous) from any source, the definition of Paint Collection Center needs to be changed in Rule 3. PaintCare suggests the following:

Paint Collection Center shall mean a location registered with the Department to accept water-based architectural coatings from any source and oil-based architectural coatings that is either Household Hazardous Waste and/or is generated by Conditionally Exempt Small Quantity Generators, in addition to any other collection activities under applicable law. The Paint Collection Center shall include all continuous land, structures and other appurtenances and improvements on the land used for accepting, storing, consolidating or shipping architectural paint or other collection activities.

In addition, several other definitions need to be modified.

- The definition of *Generator* needs to be revised to exclude Conditionally Exempt Small Quantity Generators (CESQG).
- The definition of *Hazardous Waste* should make it clear that water-based architectural coatings are not hazardous waste.
- The definition of *Household Hazardous Waste* should make it clear that water-based architectural coatings are not hazardous waste.
- Instead of revising the Hazardous Waste and Household Hazardous Waste definitions, the definition of *Architectural Coatings* could be revised to make it clear that for the purposes of Rule 10, water-based architectural coatings are considered Household Hazardous Waste, and CESQG requirements only apply to oil-based architectural coatings.

Rule 5

In order to afford the intended exemption for Conditionally Exempt Small Quantity Generators, PaintCare does not believe they should then be classified Large Quantity Generators, nor should they have to obtain an EPA ID – both of these requirements appear to defeat the purpose of conditionally exempting these small generators. Thus, PaintCare believes the following provisions in Rule 5 need to be revised.

5.1 Remove CESQG from the applicability paragraph.

5.1.A.2. Remove Paint Collection Centers

5.1.B.1. Exempt Paint Collection Centers accepting Household Hazardous Waste from the requirements as has been done in this paragraph for pharmaceuticals.

Rule 10

10.2 Again, in order to accommodate water-based architectural coatings collection from any source and to ensure that collection locations can continue to collect other products under applicable law Rule 10.2 needs to be revised. PaintCare suggests the following:

This rule shall apply to Paint Collection Centers as defined in Rule 3 (revised). Paint Collection Centers may collect water-based architectural coatings from any source and oil-based architectural coatings that is either Household Hazardous Waste and/or is generated by Conditionally Exempt Small Quantity Generators in addition to any other collection activities under applicable law.

10.2.A. In order to make it as easy as possible for a Paint Collection Center to notify the Department and not create undue burdens on retailers serving as Paint Collection Centers, PaintCare suggests using the revised form attached instead of the draft t Appendix III. In addition, PaintCare suggests allowing the program to file on behalf of all Collection Centers, instead of individually, as long as they are under contract with the program and the program is operating under an approved program plan.

10.2.D. Recordkeeping requirements as stated in this provision are overly burdensome and should not be required unless the paint being collected is oil-based paint and has been generated by a CESQG. PaintCare is unaware of any instance where a CESQG would transport waste on a manifest to a Paint Collection Center. When a CESQG does bring in oil-based paint to a collection site, a simple form can be used to certify they are eligible to use the CESQG exemption and to record their name, address, and amount of paint being collected. PaintCare is unaware of CESQG's having EPA ID numbers, and does not believe this should be necessary given the purpose of the small quantity generator exemption. PaintCare believes the first reference to Community Collection Centers in this provision should actually reference Paint Collection Centers. PaintCare also believes that the reference to Community Collection Centers following the record keeping and waste shipment requirements contained in Rule 5 is inapplicable and should not be contained in this provision. PaintCare suggests using the following for this section:

For oil-based architectural paint received from CESQG's, Paint Collection Centers shall maintain records including the name and address of the person dropping off the waste as well as the date, description and quantity of the waste. The Paint Collection Center shall keep the documentation described above for a period of at least three (3) years.

Attachment 2 – Sample Registration Form

General Registration for Collection Centers for the Paint Stewardship Program

Part I – Registration

Check the Appropriate Box identifying the registration type:

Paint Collection Center

Community Collection Center

Part II – Fee Information

The fee is waived for Paint Collection Centers. The Representative Organization is responsible for the administrative costs associated with the paint stewardship program, including the cost of registration for Community Collection Centers participating in the Paint Stewardship Program, under contract with the Representative Organization and operating under an approved Paint Stewardship Plan.

Part III – Registrant Information

Registrant Name:

Physical Address:

Mailing Address (if different):

Business Phone:

Contact Person:

Email:

Primary Contact for Departmental Correspondence and Inquires (if different than Registrant):

Physical Address:

Mailing Address (if different):

Business Phone:

Email:

Part IV – Collection Site Information

Name of Collection Location:

Physical Address:

Geographic Coordinates (Lat./Long.)

Check here if registering more than one site. Submit additional sheets as necessary to provide Part IV information for each site.

Part V – Certification:

I certify that this registration is complete and accurate and in accordance with all applicable law.

Signature Date

Print Name and Title

RIDEM Response:

Response to Paint Care Comment (this response is also intended to address comments from the American Coatings Association and PPG Industries and Salk's Hardware):

The Department completely agrees with the commenter that the Paint Care Program has proved to be very successful in several states in providing a valuable environmental service. To the end, we have and continue to work with Paint Care and its partners to ensure a successful rollout of the program. Consistent with this goal, the Department takes these concerns very seriously and has carefully evaluated how to offer appropriate relief while keeping regulatory safeguards. As discussed in general comments 2-4, the Department has made a number of changes to the regulations to address the concerns of Paint Care and its partners. These include:

- Elimination of the Rule that classifies Paint Collection Centers as LQG's,*
- Elimination of the requirement the CESQG's obtain EPA ID numbers to drop off Architectural Paint at Paint Collection Centers or Community Collection Centers*
- Elimination of separate tracking on architectural paint received from CESQG's.*
- Expansion of the household hazardous waste fee exemption to include waste architectural paint received by these centers from CESQG's.*

The comment states that the draft regulations as written create impose liability and registrations requirements on small businesses by requiring them to obtain an EPA ID number with the Department. This is not the case. The registration requirement exists in the current regulations and in many aspects, the new regulations create a much more relaxed regulatory framework. Liability for cleanup has in no way been changed. Furthermore, it should be pointed out that liability for release of hazardous substances is largely regulated by the Department's Site Remediation Regulations and its federal equivalent (the Comprehensive Environmental Response, Cleanup and Liability Act), neither of which is affected by these changes.

The Department has considered the issue of the notification form and the alternative proposed. We feel that it is important to have a means of tracking these centers. Assignment of an EPA ID number, for which there is no fee, seems the easiest way to do that. Also, hazardous waste treatment facilities track all hazardous waste generated in Rhode Island by generator ID number, so providing these numbers to Paint Care Centers will allow for a consistent documentation process. Finally, if these sites generate any other hazardous waste, to require them to submit a separate EPA ID form, after they have filled out a Paint Care Notification Forms, seems complex and burdensome. The Department feels a better alternative would be to have Paint Care fill out a generic notification, with modifications for generator address and owner and to obtain the owner's signature.

2. Laura Panciera- Program Coordinator, Paint Care

Received at public hearing 12/9/2013.

Note: commenter was unable to appear due to adverse weather condition but comment was delivered in person by Jeff Taylor of the American Coatings Association.

My name is Laura Panciera and I am the PaintCare Program Coordinator for Connecticut and Rhode Island. PaintCare is the non-profit organization that the American Coatings Association started to serve as the paint and coatings industry's product stewardship organization for post-consumer architectural paint. This is the paint as Alison Keane stated, that is in everyone's basements, sheds, and garages. It is also a waste stream that as a liquid cannot go into the landfill and in the case of oil based paint, presents a flammability hazard. Thus, it is a special waste and most often handled by municipal Household Hazardous Waste Programs. PaintCare's mission is to relieve the burden on municipal programs by providing an industry program or an extended responsibility program for the end of life of our products.

PaintCare works to ensure effective operation of paint product stewardship programs on behalf of all architectural paint manufacturers by providing a level playing field for all participants, a sustainable financing mechanism, and cost efficient administration. In addition, on behalf of manufacturer participants, PaintCare undertakes responsibility for ensuring an environmentally sound and cost-effective program by developing and implementing strategies to reduce the generation of post-consumer architectural paint; promoting the reuse of postconsumer architectural paint; and providing for the collection, transport, and processing of post-consumer architectural paint using the hierarchy of reduce, reuse, recycle, and proper disposal.

PaintCare started in Oregon in 2010, and I would like to share some of the results the program has seen. In three years, we have established over 100 collection sites for paint in Oregon - over 80% of these are retail and the rest our HHW programs. These sites are distributed throughout the state, with close to 95% percent of the population within a 15 mile radius of a collection location. There are currently 30+ retail sites that will begin serving as collection locations in 2014 as well expand the program. So consumers and contractors can bring their leftover paint back to the same places they buy paint. And since the stores are open 6 to 7 days a week, retail hours, residents have more convenient access to collection then they typical do at HHW sites, which are often only open limited days and hours. A PSI report on the Oregon program found that paint retail stores like the program since serving as a collection sites provides a community service that instills customer loyalty, and if residents are coming into the store to drop-off paint, it provides additional foot traffic for increased sales. Paint retail store in Oregon do not have to comply with any more stringent hazardous waste regulations than EPA's Resource Conservation and Recovery Act.

In Oregon, PaintCare has collected approximately two million gallons of paint, recycling or beneficially reusing 100%. PaintCare also recycled over 107 tons of plastic pails and 131 tons of metal cans during the three year period. Finally, the program is designed to relieve a considerable financial burden on the HHW programs, like Rhode Island Resource Recovery Corporation (RIRRC) and Portland (Oregon) Metro reports that the total benefit of the PaintCare for their program is in excess of one million dollars annually. The PSI report found that the majority of HHW programs cited cost savings as a benefit of the program as well as an increase in paint collection overall; fewer incidences of improperly discarded paint in their communities; increased number of visits from residents; and a heightened sense of community and empowerment to "do the right thing." So municipal HHW programs will benefit greatly from the PaintCare program as

well as the residents they serve. Again, neither were placed under additional regulations in order to participate in the program.

In California where the program began just over a year ago, PaintCare opened 350 new collection sites on day one utilizing paint retail stores. Today, the program has over 500 sites and includes municipal governments and transfer stations as well as retail. This was accomplished by changing the California law to allow for the collection of paint from residents and conditionally exempt small quantity generators at both retail and HHW without triggering hazardous waste generator requirements, as long as the collection locations were under an approved stewardship plan. Conditionally exempt small businesses can take advantage of the program without any additional requirements beyond certification. In nine months of program operations, over 600,000 gallons have been collected and recycled or beneficially reused.

Connecticut started this summer and hit its convenience standard on day with more than 80 retail stores signed up and 20 transfer stations. We have since added municipal HHW sites. Again, Connecticut did not place overly restrictive burdens on collection sites; the paint products brought in would not be counted towards their hazardous waste generator status; and conditionally exempt small businesses are allowed to use the program just as households.

PaintCare wants to implement the program Rhode Island as we have in other states making it as easy and convenient for all consumers, whether household or small business, as possible - which means allowing facilities to serve as collection sites without the unnecessary requirements, liability and cost of becoming a large quantity generator to do so; nor acting as an enforcement agency when a painting contractor wants to drop off unused paint.

Thus, I reiterate the comments made by the ACA to change the rules to drop the large quantity generator status for collection locations operating under an approved Paint Stewardship Plan; drop the requirements for a exempt small quantity generator to have a hazardous waste EPA ID number; and revise the notification form for collection locations to just that - a notification, instead of the hazardous waste manifest form it is in the draft. In advance, thank you for your consideration.

RIDEM Response: See [Paint Care Response to comment above](#).

3. Jeffrey Salk, President, Salk's Hardware and Marine

Received on 12/9/2013 as part of supporting documents to testimony of Jeff Taylor- American Coatings Association

Salk's Hardware & Marine is submitting this letter in reference to the above draft rules, and more specifically how these regulations will impact our participation in Rhode Island's new paint product stewardship program. Salk's was a strong supporter of Senate Bill #2083/House Bill #7233 – Proper Management of Unused Paint. The legislation was modeled after industry legislation passed in 6 other states. The program for proper management of unused paint - PaintCare - is successfully being implemented in Oregon, California and Connecticut. Rhode Island should implement along with Minnesota and Vermont in 2014 and Maine will follow in 2015. The statute has a specific requirement for the Department to adopt rules that would allow for conditionally exempt small quantity generator status in the state so that the program will mirror the one in the other states - paint collection centers, such as our 2 stores in Rhode Island, would be able to collect latex paint from all sources and oil-based paint from households and exempt businesses. This is consistent with federal hazardous waste regulations.

Unfortunately, the regulations as drafted fall short of this goal. As drafted, the regulations would not only make paint collection centers large quantity generators of hazardous waste; it would add burdens to small businesses trying to use the program by mandating that they also register as generators, obtain an EPA ID number and report on all paint dropped off. The purpose of the regulation and the underlying statutory mandate was to recognize small businesses as conditionally exempt small quantity generators - so that they could use the program without undue burden and cost and so that PaintCare collection facilities can collect this paint and have it recycled or properly disposed without additional regulation. Salk's is unlikely to volunteer to be a collection site for the program if it will impact our hazardous waste generator status. Similarly, paint contractors will be reluctant to use the program if it mandates that they are now large quantity generators. The result of the regulation as drafted is that the program will not be successful in Rhode Island and this waste will not be kept out of the solid waste stream.

The PaintCare program provides the requisite safeguards for collection facilities through the Department approved program plan and in contracts with collection facilities. The risk of collection of these products at our stores - the same products we are selling out the front door - is minimal. Thus, the requirements in the draft regulations are unwarranted and Company supports the comments of the American Coatings Association and PaintCare in changing them and affording collection centers and paint contractors the full benefits of the conditionally exempt small quantity generator status.

RIDEM Response: See [Paint Care Response](#) to comment above.

4. Mary Ellen Shivelts, North Americal Architectural Coatings Product Stewardship Manager, PPD Industries, Inc.

Received on 12/9/2013 as part of supporting documents to testimony of Jeff Taylor- American Coatings Association

PPG Industries, Inc. (PPG) is submitting this letter in reference to the above draft rules, and more specifically how these regulations will impact our participation in Rhode Island's new paint product stewardship program. PPG was a strong supporter of Senate Bill #2083/House Bill #7233 – Proper Management of Unused Paint. The legislation was modelled after industry legislation passed in 6 other states. The program for proper management of unused paint - PaintCare - is successfully being implemented in Oregon, California and Connecticut. Rhode Island should implement along with Minnesota and Vermont in 2014 and Maine will follow in 2015. The statute has a specific requirement for the Department to adopt rules that would allow for conditionally exempt small quantity generator status in the state so that the program will mirror the one in the other states - paint collection centers, such as our two stores in Rhode Island, would be able to collect latex paint from all sources and oil-based paint from households and exempt businesses. This is consistent with federal hazardous waste regulations.

Unfortunately, the regulations as drafted fall short of this goal. As drafted, the regulations would not only make paint collection centers large quantity generators of hazardous waste; it would add burdens to small businesses trying to use the program by mandating that they also register as generators, obtain an EPA ID number and report on all paint dropped off. The purpose of the regulation and the underlying statutory mandate was to recognize small businesses as conditionally exempt small quantity generators - so that they could use the program without undue burden and cost and so that PaintCare collection facilities can collect this paint and have it recycled or properly disposed without additional regulation. PPG is unlikely to volunteer to be a collection site for the program if it will impact our hazardous waste generator status.

Similarly, paint contractors will be reluctant to use the program if it mandates that they are now large quantity generators. The result of the regulation as drafted is that the program will not be successful in Rhode Island and this waste will not be kept out of the solid waste stream.

The PaintCare program provides the requisite safeguards for collection facilities through the Department approved program plan and in contracts with collection facilities. The risk of collection of these products at our stores - the same products we are selling out the front door - is minimal. Thus, the requirements in the draft regulations are unwarranted and PPG supports the comments of the American Coatings Association and PaintCare in changing them and affording collection centers and paint contractors the full benefits of the conditionally exempt small quantity generator status.

See [Paint Care Response](#) to comment above.

5. Terrence Martesian, Associated Builders and Contractors and the Rhode Island Lumber Association

Received on 12/9/2013 orally at Public Hearing

I would say that Mr. Taylor stated some of the concerns that we have. We believe that as presently drafted, it's going to be a disincentive for business and also small generators, small contractors, and most of the painting contractors are small, virtually all of them are small, from wanting to participate, or voluntarily participate in this program. To make a program successful, you want inclusiveness, you want participation. We believe as presently drafted, this is a disincentive, and they're not going to participate. Just the mere fact that they will have to register. The way we're talking about now, and the state is talking about easing regulations, easing permitting, we think this might be a step backwards. We are, I believe my clients will be submitting some testimony to that effect.

RIDEM Response: Agreed. As per general comment #3 the Department has decided to waive the existing and proposed requirement that generators participating in the program obtain EPA ID numbers.

6. William R. Howard, CHMM- Narragansett Electric Company

Received 11/25/2013 by email.

Dear Mr. Dennen

The Narragansett Electric Company d/b/a National Grid (National Grid) wishes to provide comments on the proposed changes to the **Rules and Regulations for Hazardous Waste Management**. We feel that the changes we support will improve the business climate in our State by providing less regulatory burdens to existing and future businesses, without increased risk or harm to the environment or human health.

National Grid respectfully submits the following comments on its proposed regulations:

1. The RI DEM should eliminate Rule 5.7. This rule creates an undue burden for generators with large numbers of employees, or high staff turnover. If elimination of this rule is not feasible, two alternatives could be to eliminate the requirement for providing signatures, or change the Rule to authorize employees of a hazardous waste generator to sign manifests on behalf of the generator.

RIDEM Response: This requirement exists due to the fact that in the past, companies have asserted, with some success that they were not liable for mismanagement of waste because the employees who signed manifests were not authorized by the company to do so. The Department feels that this requirement eliminates that ambiguity. There have also been situations where generator signatures were forged by transporters, so having a record of the signature of manifest signers also serves to protect companies from fraud. Lastly, it makes the requirement that employees who sign manifests be trained much simpler to verify. The Department realized that employees are constantly being added and removed, which is why generators can fax in additions to the manifest signers list at any time. Therefore the Department does not feel that this rule needs to be deleted as it does not represent a significant regulatory burden or impose unnecessary costs on the regulated community.

2. Rule 5.10 is unclear if the 48 inches of aisle space is intended to be between rows of drums in the storage area, or for access through the property/building to the waste storage area. The intent of the rule should be clarified.

RIDEM Response: The Department agrees with the suggestion. As per general comment #6, aisle space requirement was changed to 3 feet. Also, the intent of the rule was clarified as quoted below:

Adequate aisle space shall be maintained of no less than three feet between rows of containers in all areas of the facility where hazardous waste is stored to allow for access to containers and tanks holding hazardous waste by emergency personnel, fire protection equipment, spill control equipment, decontamination equipment and for inspection to ensure the tanks and containers are in good condition.

3. To create consistency and ease of reading, we suggest changing Rule 5.13(F)(2)(d) to Rule 5.13(F)(3); and labeling the last sentence in Rule 5.14(D) as Rule 5.14(D)(3)

RIDEM Response: Agreed, the rule will be changed as suggested.

4. We suggest eliminating Rules 5.13(F)(1)(c), 5.13(F)(2)(c), 5.14(D)(1)(c), 5.14(D)(2)(c), and 5.15(D)(1)(c). Names, addresses and EPA identification numbers are unnecessary for containers in storage at a generator's site. This creates an unnecessary burden to the regulated community, as it can require specialized labels to be purchased or created.

RIDEM Response: The Department believes this information makes tracking of the waste easier in the event it is mismanaged. Furthermore, as this information must eventually be added prior to shipment, the Department does not see this as an unreasonable burden. However, we agree with the commenter that Rule 5.13(F)(2)(c), requiring the generator name and address on tanks, is not necessary, and it was removed.

5. Move Rule 5.14(G) to 5.14(E). This will align the SQG and CESQG rules to allow easier reading and comparison of Rule 5.14 and 5.15.

RIDEM Response: Agreed, the rule will be changed as suggested.

6. Under "Rhode Island Wastes" in Rule 3.00, the words "or shows ten micrograms per one hundred square centimeters (10 micrograms/100 cm²) as measured by standard wipe tests." should be removed from L(7). This requirement to manage such wastes as hazardous is unnecessary, overly restrictive, and ambiguous when compared to the disposal requirements at 40 CFR 761. For instance, a wipe sample collected from the inside of a fully-drained transformer formerly containing PCB-contaminated (50 to 499 ppm) fluids might exhibit PCB concentrations over 10 micrograms/100 cm²; however, the disposal options for the drained transformer at 40 CFR 761.60(b)(4) and (b)(6)(ii)(A) are much less restrictive than disposal as a Rhode Island Waste.

RIDEM Response: Agreed, the requirement dates back to a time before the Site Remediation Regulations existed and was designed to protect workers and the public from exposure to PCB's. We have decided that these issues are better dealt with by the Site Remediation program and therefore the requirement was deleted.

The following typographical errors were noticed:

1. There are two Rules 5.13(B). It appears that the first should be Rule 5.13(A)(4)(d).

RIDEM Response: Agreed, the rule will be changed as suggested.

2. Rule 5.13(F)(2)(d) appears to be misplaced.

RIDEM Response: Agreed, this should be 5.13(F)(3) as per comment 3.

3. Rule 15, Table 2, “Polychlorinated” is misspelled.

RIDEM Response: The “d” appeared to be omitted due to word wrapping, width of the column was adjusted.

National Grid would also suggest that the RI DEM make updates to their “*Hazardous Waste Compliance Workbook*” to reflect the revised regulations and make it available at the time that the revised regulations go into effect. The workbook is a well written document and will help generators to comply with the updated regulations in a timely manner.

RIDEM Response: The Department will note this comment and try to update the workbook as early as possible.

National Grid supports the bulk of changes and updates that have been proposed. We sincerely appreciate the effort expended by the department to keep its regulations current and reasonable. Please feel free to contact me with any questions or comments at my office.

RIDEM Response: See the Department’s general response on Recognition of Small Quantity and Conditionally Exempt Small Quantity Generator Status

Sincerely,

William R. Howard Jr., CHMM
Lead Environmental Scientist

7. Charlotte A Smith, R. Ph., M.S.- PharmEcology Services, WM Healthcare Solutions, Inc.

Received 12/5/2013 by email.

Dear Mr. Dennen:

Thank you for the opportunity to comment on the proposed changes to the hazardous waste rules in Rhode Island. We appreciate the time and effort the State of Rhode Island has devoted to a comprehensive review of the state hazardous waste regulations to enable generators to comply more completely. You had identified two specific areas of interest - the definition of Rhode Island waste in Section 3 and the exemption for household pharmaceutical waste in Section 5. We will comment on both of these in addition to some other areas of interest. I've listed each section with the pertinent verbiage and our response for your consideration.

1) 3. Definitions:

Household hazardous waste shall mean waste that meets any of the definitions of a hazardous waste and which is derived from households.

Recommendation: Please include a definition of a business with respect to a long term care facility, an independent living facility, an assisted living facility, and a group home. You may wish to refer to guidance published by the State of Wisconsin on this topic which can be accessed at <http://dnr.wi.gov/topic/HealthWaste/facility.html>.

RIDEM Response: [reference should read: <http://dnr.wi.gov/topic/HealthWaste/facility.html>]. This link provides useful distinctions on household vs. commercial operations. The definitions were modified as shown below:

Household hazardous waste shall mean waste that meets any of the definitions of a hazardous waste and which is derived from households. This definition does not include hazardous wastes generated in households as part of a business, nor shall this definition extend to wastes from hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas, except for those wastes ordinarily left behind by guests or other users of these institutions. Hazardous waste pharmaceuticals from residential care apartment complexes or other properties that purchase, store, distribute or otherwise centrally manage medications on behalf of tenants are not considered household hazardous waste, but rather are regulated as hazardous waste.

2) *Household hazardous waste pharmaceuticals* shall mean pharmaceutical wastes that also meet the definition of household hazardous waste.

Recommendation: If clarification is provided as to which facilities are considered "households," we consider this definition to be appropriate. We would further recommend that household hazardous waste pharmaceuticals retain the federal exemption from hazardous waste regulation when collected during any type of consumer "take-back" program, whether it be a community event, through a mail-back program, or a retail kiosk. All of these options have been offered in the proposed DEA amendment to the Controlled Substances Act which is expected to be finalized in the near future. By exempting these drugs from hazardous waste regulations, costs can be reduced and waste-to-energy plants, a "green technology," can accept these wastes. Since the new DEA regulations prohibit handling of drugs by anyone other than law enforcement, not

exempting these drugs from hazardous waste regulation would require all consumer-generated drugs to be managed as hazardous wastes.

RIDEM Response: Agreed. Regulation 5.1B was modified as shown below:

Household Hazardous Waste Pharmaceuticals accepted for destruction as consumer take-back programs, in accordance with the Department of Health and US Drug Enforcement Administration regulations are not subject to these regulations.

3) Large Quantity Generator of Hazardous Waste (LQG) shall mean a person who meets any of the following conditions:

- A. generates 2200 lbs or more of hazardous waste in a calendar month, or
- B. generates greater than 2.2 lbs of acutely hazardous waste in a calendar month, or
- C. generates more than 220 lbs of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill into or on any land or water, of any acutely hazardous waste in a calendar month or
- D. is a generator of hazardous waste but does not meet the definition of Small Quantity Generator or Conditionally Exempt Small Quantity Generator.

Such quantity determination shall be made in accordance with Rule 5.6. [See also Definitions of Small Quantity Generator and Conditionally Exempt Small Quantity Generator]

Recommendation: We recommend adding the stipulation that no more than 2.2 lbs of acutely hazardous waste can be stored at anyone time to be consistent with the federal definition of a large quantity generator.

Both definitions of CESQG and SQG were modified to limit total accumulation to 2.2 lbs of hazardous waste.

4) A. Rhode Island Hazardous Waste Codes R001-RO10

Waste codes RO01 through RO10 are only to be used if the waste meets the definition associated with these codes and does not meet any of the federal definitions of a hazardous waste.

1. Reserved: The following waste codes are reserved: R001, R002, R003, R004, R005 and R008.

2. Extremely *Hazardous Waste (R006)* shall mean any waste that:

- a. contains any KNOWN CARCINOGEN as designated in regulatory rulemaking by any of the federal agencies (OSHA, FDA, EPA or CPSC) in concentrations or amounts at or above the federally regulated level or at 1/10 of 1% (0.1%) by weight, whichever is more stringent, of any solid or liquid mixture. This rule does not apply to asbestos waste, or
- b. contains any SUSPECT HUMAN CARCINOGEN as designated in regulatory rulemaking by any of the federal agencies (OSHA, FDA, EPA or CPSC) in concentrations or amounts at or above the federally regulated level or at 1% by weight whichever is more stringent, of any solid or liquid mixture. This rule does not apply to asbestos waste, or

Recommendation: We recognize this definition as well-intentioned but have serious concerns as to its implementation. We would recommend instead that the definition of KNOWN and SUSPECT HUMAN CARCINOGEN be confined to the most recent publication of the Report on Carcinogens prepared periodically by the National Toxicology Program, Dept. of Health and Human Services. The current 12th Report on Carcinogens can be accessed at

<http://ntp.niehs.nih.gov/?objectid=03C9AF75-E1BF-FF40-DBA9EC0928DF8B15>. Pharmacists and other pharmaceutical waste generators can review this report for any drugs and manage them as a hazardous waste in Rhode Island.

RIDEM Response: The Department's Extremely Hazardous Waste definition has been in place for more than 25 years and is used to capture carcinogenic wastes that would otherwise go unregulated at the federal level. As the commenter rightly points out in a later comment, federal hazardous waste listings have not kept up with the development of new compounds, especially pharmaceuticals. After researching the references, the Department has concluded that confining the definition of KNOWN and SUSPECT HUMAN CARCINOGENS to only those chemicals listed by the National Toxicology Program (currently, 54 substances known to be human carcinogens and 186 substances reasonably anticipated to be human carcinogens) would reduce the scope of the Department's hazardous waste regulatory program. Though PharmEcology is commenting from a pharmaceutical waste generator perspective, the Extremely Hazardous Waste definition applies to a broad range of business and industry located in the State of Rhode Island such as chemical manufacturers, research and environmental analytical laboratories, electroplaters and metal finishers, textile manufacturers, automotive refinishing, etc.

The National Toxicology Program publishes a congressionally mandated report of known and "reasonably anticipated to be" human carcinogens (available at: <http://ntp.niehs.nih.gov/?objectid=03C9AF75-E1BF-FF40-DBA9EC0928DF8B15>). Though it might be inferred that since OSHA, FDA, EPA and other federal agencies participate in the preparation of the NTP report that the published listings would be entirely comprehensive, this is not the case. In the 2011 Twelfth Report on Carcinogens (RoC), the agency acknowledged that the report has some limitations, for example— 1) "the RoC is required to list only substances to which a significant number of people living in the United States are exposed," and 2) "the substances listed in the RoC do not include all human carcinogens. The RoC lists only those nominated agents, substances, mixtures, or exposure circumstances for which relevant data exist and have been reviewed and found to meet the [defined] listing criteria..."

As a practical example, by removing EPA from the Extremely Hazardous Waste definition, and relying solely on the NTP listings, a significant number of EPA Class A (Human carcinogen), B1/B2 (Probable human carcinogens), 1996 Known/likely human carcinogens, and 2005 carcinogenic/likely carcinogenic to human chemical compounds would not be subject to state regulation. Examples of carcinogenic agents that are listed by EPA (Integrated Risk Information System) and that would be excluded from regulation under PharmEcology's recommended changes include: creosote, aldrin, aniline, azobenzene, benzyl chloride, bromoform, chlordane (technical), chrysene, dichlorvos, dieldrin, folpet, heptachlor, heptachlor epoxide, acephate, dibromochloromethane, hexachlorobutadiene, beta-hexachlorocyclohexane, isophorone, bromate, quinoline, 1,2-dibromoethane, dichloroacetic acid, pentachlorophenol, and 1,1,2,2-tetrachloroethane. In addition, the EPA is currently in the process of expanding its list of carcinogenic polycyclic aromatic hydrocarbons from 7 to 25—it is unlikely that all of the 18 new cPAHs will be nominated for review and listed by the NTP in the near future.

In conclusion, the Department does not agree with PharmEcology that references to OSHA, FDA, EPA and CPSC should be deleted from the Extremely Hazardous Waste definition and replaced solely with NTP. The Department does agree, however, that the U.S. Department of Health and Human Services NTP RoC would be a good resource for pharmacists and other waste generators, particularly in the health care industry, to consult for hazardous waste identification purposes. Therefore, the Department will modify the Extremely Hazardous Waste definition to "include" NTP in its list of federal agencies—e.g., "...designated in regulatory rulemaking by any of the

federal agencies (OSHA, FDA, EPA, CPSC, or DHHS-NTP) in concentrations or amounts...”. This practice is consistent with the Department’s historic efforts to identify and define carcinogens in other regulatory programs, such as the air toxics program (Air Pollution Control Regulation No. 22 Air Toxics, 22.1.2 “Carcinogen”).

5) c. Any waste that contains any U. S. Department of Transportation Class 2, Division 2.3 hazardous material (gas poisonous by inhalation), per 49 CFR 173.115...

Recommendation: In reviewing the definition (see Appendix) given in the CFR, we find it very difficult for a generator of waste pharmaceuticals to be able to determine what drugs, if any, would meet these definitions. In reviewing the hazardous materials table at 49 CFR 172.101, any gas that is poisonous enough to trigger the Division 2.3 category would not be useful as a pharmaceutical. We recommend this definition not apply to pharmaceuticals in finished dosage forms, such as inhalers, capsules, tablet, syrups, injectables, ointments, etc.

RIDEM Response: Agreed. Regulation has been modified.

6) or Class 6, Division 6.1 hazardous material (poisonous materials), per 49 CFR 173.132
Recommendation: Again, trying to apply the definition (see Appendix) to pharmaceuticals will be very difficult. If these definitions are retained, a reference should be made to the DOT hazardous materials table at 49 CFR 172.101. In reviewing that table for 6.1 poisons, we have documented arsenic trioxide, chloral, and chloroform as examples, all of which are also EPA listed hazardous wastes. Barium compounds were also listed as 6.1, but most barium sulfate pharmaceuticals pass the EPA's toxicity characteristic leaching procedure. Having them as possible hazardous wastes regardless of concentration would seem to be confusing over-regulation. We again recommend that pharmaceuticals in finished dosage forms be excluded from this definition.

RIDEM Response: Agreed. Regulation has been modified.

7) d. contains chemotherapy agents intended for use in treating cancer in humans or animals. Generators may petition to exempt specific chemotherapy wastes as per as described below:
e. A generator of Chemotherapy Waste (R006) who believes the classification is not appropriate may petition the Director for exclusion of a specific waste or group of wastes from the definition Rhode Island Hazardous Waste. In order to qualify for exclusion, the generator shall demonstrate the following:

- i. The Waste is not carcinogenic.
- ii. The Waste is not teratogenic, mutagenic or in other ways harmful to fetal development.
- iii. The Waste is not toxic to humans.
- iv. The Waste is not toxic to the aquatic environment.

Recommendation: We agree that including chemotherapy agents in the definition of RI hazardous waste is appropriate, especially in light of the EPA OIG Report: EPA Inaction in Identifying Hazardous Waste Pharmaceuticals May Result in Unsafe Disposal, which may be accessed at <http://www.epa.gov/oig/reports/2012/20120525-12-P-0508.pdf>. We would recommend that the definition of chemotherapy drugs apply only to actual antineoplastic agents and exclude those drugs used as supportive treatment but which may be listed in official references under the heading "Chemotherapy."

RIDEM Response: RIDEM Response: The commenter raises an excellent point about the vagueness and inclusiveness of definition of chemotherapy waste. She suggests the use of the term “anti-neoplastic” whereas another commenter suggested cytotoxic or genotoxic. To err on

the side of caution, we have used both anti-neoplastic and cytotoxic.. See General response on Chemotherapy Waste.

8) 4. Mercury Containing Wastes (R009) shall mean any waste that: Contains mercury waste or any mercury-added products that are disposed of as waste. This term shall not include mercury containing wastes and mercury-added products that are sent for recycling in accordance with Rule 13 or otherwise exempt from regulation under the Mercury Reduction and Education Act (§2324.9).

Recommendation: All pharmaceuticals containing mercury in any form, including preservatives, will become hazardous waste under the current RCRA regulations for toxicity. May we assume that these wastes would retain the federal hazardous waste code of D009?

RIDEM Response: Those that fail TCLP of 0.2 mg/l for mercury will bear the waste code of D009 (federal), those that contain mercury but at levels below 0.2 mg/l will bear a waste code of R009. The definition was revised to be more clear as shown below:

***Mercury Containing Wastes (R009) shall mean any waste that:**
Contains any mercury-added products that are disposed of as waste but do not meet the federal definition of D009 in 40 CFR 261.24. These wastes may also be managed as mercury containing equipment as per Rule 13.*

9) Satellite accumulation shall mean the accumulation of as much as fifty-five (55) gallons of hazardous waste, or the accumulation of as much as one quart of acutely hazardous waste, in containers located at or immediately near any point of generation where the waste initially accumulates, and that is under the control of the operator of the process generating the waste.

Recommendation: There has been some concern expressed about how the one quart limit applies to the collection of unit-dose wrappers of warfarin tablets and envelopes that have held nicotine patches. Since these are often the only P-listed wastes being generated in nursing units, would it be appropriate here to exempt such collection from the 1 quart limit, under the assumption that only residue amounts are being collected which cannot be measured in the usual manner?

RIDEM Response: We agree that the regulation, which is quoted from 40 CFR 262.34(c) [[click here](#) for link to 40 CFR] leaves room for interpretation. While we intend on following the federal interpretation in this area, we are reluctant to incorporate a federal interpretation into the regulations as that guidance could change without notice. Furthermore, we anticipate EPA rulemaking in the near future may make the federal interpretation irrelevant causing even more confusion. The Department will consider issuing guidance that mirrors the federal guidance.

10) Small Quantity Generator of Hazardous Waste (SQG) shall mean a person who meets all of the conditions below:

- A. generates less than 2,200 lbs but greater than 220 lbs of hazardous waste in a calendar month, and
- B. generates 2.2 lbs or less of acutely hazardous waste in a calendar month, and
- C. generates 220 lbs or less of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill into or on any land or water, of any acutely hazardous waste in a calendar month, and

D. Does not at any time stores on-site a total amount of hazardous waste greater than 13,200lbs.

Recommendation: Add the term "and stores less than 2.2 lbs of acutely hazardous waste at anyone time."

RIDEM Response: Agreed. Regulation has been modified.

11) 5.1 Purpose, Scope and Applicability

B. Exemptions:

1. These rules do not apply to household hazardous waste generated by nonbusiness activities at single and/or multiple family residences, subject to the household hazardous waste exemption in 40 CFR 261.4(b)(1). However, owners and/or operators of facilities that accept household hazardous waste, other than household hazardous waste pharmaceuticals, shall comply with the requirements for Large Quantity Generators in this Rule and upon receipt the household hazardous waste shall be subject to full regulation as hazardous waste.

2. Facilities that accept only Household Hazardous Waste Pharmaceuticals for destruction in accordance with the Department of Health and US Drug Enforcement Agency regulations are not subject to these regulations.

Recommendation: Please note the US DEA is the Drug Enforcement Administration. We believe this addresses our earlier concerns regarding the acceptance of Household Hazardous Waste Pharmaceuticals and the exemption from the RI Hazardous Waste Regulations.

RIDEM Response: Agreed. Regulation has been modified.

12) 5.2 Prohibitions

A. Disposing of hazardous waste, shipping hazardous waste to anywhere other than a Designated Facility, or for CESQG's a Community Collection Center permitted by the Department to receive hazardous waste from households or CESQG's only, or for CESQG's shipping architectural paint waste to a Paint Collection Center allowed to receive architectural paint waste from households or CESQG's only.

Recommendation: Add the word "to" between shipping architectural paint waste" and "a Paint Collection Center..."

RIDEM Response: Agreed. Regulation has been modified.

13) 5.3 Hazardous Waste Determination:

Any person who generates a solid waste shall determine if the waste is a hazardous waste using the following method. The Generator shall first determine if the waste meets any of the federal definitions of hazardous waste as required by 40 CFR 262.1 1(b) and (c). In accordance with the requirements of 40 CFR 261.4, as modified in Rule 2.2(C), the Generator may then determine if the waste meets any of the exemptions or exclusions contained in that section.

Recommendation: These federal references are very confusing. We recommend referring to 40 CFR 261.33 and 40 CFR 261.20 to 24 for the basic definitions of federal hazardous waste.

RIDEM Response: We concur the wording is complicated. We are reluctant to point the generator to the federal regulations when not all of its exclusions are incorporated. There was a typo in the original citation that should have read 40 CFR 260.21 instead of 260.11. We have modified the regulations as shown below in hopes it will simplify the issue:

Hazardous Waste Determination:

Any person who generates a solid waste shall determine if the waste is a hazardous waste using the following method. The Generator shall first determine if the waste meets definition of a hazardous waste in Rule 3. In accordance with the requirements of 40 CFR 261.4, as modified in Rule 2.2(C), the Generator may then determine if the waste meets any of the exemptions or exclusions contained in that section. If the waste does not meet any of the federal definitions of hazardous waste, the generator shall then determine if any of the Rhode Island hazardous waste types apply, as defined by Rule 3 of these regulations. Analytical testing may be employed by the generator to determine if a solid waste is hazardous waste and shall be determined by an approved method as set forth in 40 CFR 261 Subpart C. Equivalent testing methods per 40 CFR 260.21 are not allowed. Generators may also determine the regulatory status of the waste through product knowledge by demonstrating in writing clear and convincing scientific evidence of the characteristics of the waste and the process(es) that generated the waste. Regardless of any advisory opinions or statements from any laboratory or government agency, it remains the generator's responsibility to properly characterize his/her wastes. If the waste is determined to be hazardous, the generator must refer to 40 CFR Parts 261, 264 – 266, and 273 as incorporated by reference at 2.2B, C, E, F, G and I and 40 CFR Part 268 (as administered by the EPA) for possible exclusions or restrictions pertaining to the management of the specific waste.

14) 5.4 Generator Notification and Identification:

All Generators shall notify the Department of their hazardous waste activity by applying for and obtaining an EPA Identification Number from the Department for his/her site the Notification Form identified in Appendix III unless otherwise stated by the Department. These generators shall not store or offer hazardous waste for shipment without first obtaining an EPA Identification Number and shall notify the Department in the event of a change of his/her status (LQG, SQG, CESQG, Non-generator) and/or a change in the nature of the hazardous waste generation activity. Only one EPA Identification Number will be issued for an individual generation site and the generator shall use the assigned EPA Identification Number exclusively for shipments of hazardous waste from the site. At the discretion of the Department, either a permanent or temporary EPA Identification Number will be issued to the generator. Temporary EPA Identification Numbers issued by the DEM shall be valid for a period of time not to exceed ninety (90) days from the date of issuance.

Clarification: Does this requirement extend to CESQG's? It would be helpful to call this out since it is more stringent than the federal regulations. There also appears to be some verbiage missing with respect to the underlined area.

RIDEM Response: Agreed. Regulation has been modified as shown below:

*All Generators, **including CESQG's** shall notify the Department of their hazardous waste activity by applying for and obtaining an EPA Identification Number from the Department for his/her site using the Notification Form provided by the Department. However, CESQG's do not need to obtain and EPA Identification number in order to drop off paint at either a Community Collection Center or a Paint Collection Center.*

15) 5.7 Authorized Manifest Signers List:

Generators shall submit to the Department a list of the names and signatures of all agents authorized to sign the Uniform Hazardous Waste Manifests on behalf of the company prior to shipping hazardous waste off-site. Generators shall amend the list as necessary in the event of a reduction or gain in personnel and shall submit the amended form to the Department within thirty (30) days of the modification.

Recommendation: This requirement will be quite onerous for businesses for which hazardous waste generation is not a significant part of the daily operations, as in hospitals and retail pharmacies. We recommend this requirement apply to LQG's only.

RIDEM Response: This requirement exists due to the fact that in the past, companies have asserted, with some success that they were not liable for mismanagement of waste because the employees who signed manifests were not authorized by the company to do so. The Department feels that this requirement eliminates that ambiguity. There have also been situations where generator signatures were forged by transporters, so having a record of the signature of manifest signers also serves to protect companies from fraud. Lastly, it makes the requirement that employees who sign manifest be trained much simpler to verify. The Department realized that employees are constantly being added and removed, which is why generators can fax in additions to the manifest signers list at any time. Therefore the Department does not feel that this rule needs to be modified.

16) 5.9 Satellite Waste Accumulation:

Generators may store up to 55 gallons of hazardous waste, or one quart of acutely hazardous waste listed in 40 CFR 261.33(e) or 40 CFR 261.30 (d), in containers (satellite accumulation container) at or near any point of generation where the wastes initially accumulate, which is under the control of the operator of the process generating the wastes without a storage permit or interim status and without complying with the storage and accumulation requirements of Rule 5.13 through 5.15 provided that the generator:

A. Labels each satellite accumulation container with the following information:

1. The words "Hazardous Waste"
2. The chemical or common name of the waste.
3. The date the excess amount of hazardous waste began accumulating per 40 CFR 262.34(c)(2).

Recommendation: For generators of pharmaceutical waste, each container will contain a variety of drugs. We recommend the following be added: In the case of pharmaceutical waste, the words "Pharmaceutical Waste" may be used in place of the chemical or common name of the waste.

RIDEM Response: See below.

17) 5.12 Pre-Transport Requirements:

Before transporting hazardous waste or offering hazardous waste for transportation off-site, generators shall:

A. Package, label and mark each storage unit for offsite shipment in compliance with U.S.D.O.T. requirements under 49 CFR parts 172, 173, 178 and 179. Place a hazardous waste label on each container which includes the following information:

1. The words "Hazardous Waste - Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency".
2. Generator's name, address, city, state, zip code and telephone number
3. Generator's EPA identification number
4. Proper D.O.T Shipping Name
5. Hazardous Properties/Description

6. EPA waste codes
7. State waste code (if applicable)
8. Manifest document number

Recommendation: Containers of pharmaceutical waste will often have a variety of waste codes. Currently, the federal rules require the two most common waste codes be placed on the shipping label. States with their own state waste codes often require that the state waste codes take precedence and the top two state codes be listed. Since all the codes will be listed on the manifest, and there is not enough room for multiple codes on the label, we recommend that the regulation be changed to require the top two state and federal waste codes.

RIDEM Response: See below.

18) 5.13 Large Quantity Generator (LQG) - Waste Management Requirements

F. Labeling:

1. Each accumulation container holding hazardous waste shall be labeled with the following information:
 - (a) The words "Hazardous Waste".
 - (b) The chemical or common name of the waste.
 - (c) Name, address and EPA Identification Number of the generating facility.

5.14 Small Quantity Generators (SQGs) Waste Management Requirements:

D. Labeling:

1. Each accumulation container holding hazardous waste shall be labeled with the following information:
 - (a) The words "Hazardous Waste".
 - (b) The chemical or common name of the waste.
 - (c) Name, address and EPA Identification Number of the generating facility.

5.15 Conditionally Exempt Small Quantity Generators (CESQGs)- Waste Management Requirements

F. Labeling:

1. Each accumulation container holding hazardous waste shall be labeled with the following information:
 - (a) The words "Hazardous Waste".
 - (b) The chemical or common name of the waste.
 - (c) Name, address and EPA Identification Number of the generating facility.

Recommendation: As noted above, containers holding hazardous pharmaceutical waste will often have multiple waste codes. We recommend these statements be revised to include: In the case of pharmaceutical waste, the words "Pharmaceutical Waste," or something to that effect, may be used in place of the chemical or common name of the waste.

RIDEM Response: The Department is reluctant to modify the regulations in ways that may be viewed as less strict than federal requirements. The Department believes that other health care facilities in New England have achieved compliance by pre-printing labels that can be checked off and would be happy to work with health care providers in Rhode Island.

The above recommendations summarize our comments on the proposed changes in the Rhode Island hazardous waste rules. We will be unable to attend the Public Hearing but look forward to staying in touch as the rule changes progress. Please feel free to contact us with any questions regarding the submitted comments.

Respectfully submitted,

Charlotte A. Smith, R. Ph., M.S.
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8. Eugenia Marks, Senior Director of Policy- Audubon Society of Rhode Island
Received at public hearing 12/9/2013.

Comments to Proposed Amendments of Hazardous Waste Rules and Regs December 9, 2013

1. We concur with the inclusion of architectural paint and pharmaceuticals as categories for management of hazardous waste. Paint pigments (cadmium, chromium, and other elements can be hazardous) and paint vehicles often contain products that are harmful upon dermal or respiratory exposure. Pharmaceuticals conducted through sewage treatment systems into water can damage aquatic organisms.

RIDEM Response: DEM appreciates the comment and has tried to strike the balance between ease of disposal and effective regulation that will allow more of these wastes to be properly managed.

2. Paint Collection Centers without full RCRA facility permit- (OKAY)

RIDEM Response: The commenter clarified that the issue of Paint Collection Centers not having to obtain a RCRA Facility Permit is not of concern to them.

3. Definition of "Architectural Paint" should include clarification for mobile homes that may be stationary and recreational vehicles. (page 12)

RIDEM Response: In speaking to Paint Care Representatives, the Department concluded that the existing definition, suggested by Paint Care based on the program in Connecticut, is the most workable definition. In practice, automotive paints are not easily confused with architectural paints.

4. Definition Conditionally Exempt Small Quantity Generators: are containers included in the measurement of quantities by weight of small amounts of Hazardous waste? Since this definition applies to architectural paint where the product is liquid, does it make sense to measure as volume? Might consider re-wording to include product and its container. (page 13; page 29)

RIDEM Response: To minimize confusion, the state mirrored the federal EPA standards. These limits are defined only in kilograms and pounds. Therefore generators are required, if they ship using volumetric units, to convert to pounds based on the density of waste. If the Department were to define these limits based on volume, it would create a different (and possibly less stringent) standard than EPA.

5. Page 16 definition of "evaporation unit," paragraph after "D" omits second rule/ continuation of sentence is deleted and ends abruptly as "...Rules 7 and"

RIDEM Response: Agreed. The regulation should have said "Rules 7 and 8".

6. Code R 006 definition cA. continued on page 26. Should terrestrial animals be included in definition? If chemotherapy materials are dumped or in some other way disposed of on land, it is possible for exposure to ground-feeding birds or mammals. "The Waste is not toxic to aquatic or terrestrial environment."

RIDEM Response: The Department created this provision to petition the Department as chemotherapy agents encompass a broad range of compounds. In consideration of other

comments on this rule, we have more carefully defined chemotherapy agents as anti-neoplastic and cytotoxic compounds. As such, we have removed this provision for the generator to petition the Department to treat the materials as non-hazardous as we do not think such a petition is reasonable for anti-neoplastic and cytotoxic drugs.

7. Under Mercury Containing Wastes (p. 27), What about exempted products regulated under Rule 13 of the Mercury Reduction & Education Act that are not disposed properly, as opposed to collected and properly disposed? I think there is a little loophole here. Do you want to add "legally or illicitly" before "disposed of as waste" in line 2?

RIDEM Response: Rule 13 does not allow disposal as a solid waste, therefore, If waste is not treated in accordance with Rule 13, it loses the status as universal waste and reverts back to hazardous waste. To use subjective terms like "illicit disposal" may actually confuse the issue and create a loophole.

8. Should architectural paint be listed under Rhode Island Fee Exemption Waste Codes (p. 27)?

*RIDEM Response: Agreed. See comment on **Hazardous Waste Fee and Paint Collection Centers***

9. The definitions of "sanitary septage" and "septage" seem to overlap in a confusing way. What is the distinction?

RIDEM Response: There is no meaningful distinction. The Department has meant it to include not only human waste but grease trap waste and waste from washing machines, etc. The Department completely agrees that the two slightly different wordings create confusion. The term "sanitary septage" has been replaced with septage, defined as follows:

***Septage** shall mean septage from individual sewage disposal systems containing human or animal excremental liquid or substance, any putrescible animal or vegetable matter, garbage and filth, including the discharge of water closets, laundry tubs, washing machines, sinks, dishwashers and the contents of septic tanks, grease traps, cesspools or privies.*

10. Definitions of 40 CFR and 49 CFR: Do you want to add "as amended" after the respective dates July 1,2013 and October 1" 2013 so that the regulations continue to be pertinent as federal regulations are amended?

*RIDEM Response: While this presumptive incorporation occurred in the past, the Department has concluded that to do so is a violation of Rhode Island General Law Chapter 42-35-2 (**Administration Procedures: Public information – Adoption of rules – Availability of rules and orders**). This is because the statute requires that the Department go to public hearing prior to adopting rules. If a federal rule changes, the automatic adoption of the new federal rule would violate this statute.*

11. Page 36, 4.2: Does the term "undue hardship" have boundaries in law? Is there a better definition to allow flexibility yet provide clear standards? We ask that a more explicit qualifier be substituted for this phrase.

RIDEM Response: After consulting with legal counsel we do not feel a better option exists and the term is used in other regulations.

12. Page 40, B.2.: Do mercury containing thermometers qualify as "pharmaceuticals" under this section? Since they are/ have been collected under organized collections, what is the best rule for these materials to be categorized under? Clarify handling of mercury-containing thermometers.

RIDEM Response: As the presumed destination for household pharmaceutical waste is incineration under the supervision of a police officer, the Department would be very concerned if thermometers or other mercury containing devices were mixed with this waste stream. While the Department does not believe thermometers meet the definition of pharmaceuticals, the ambiguity in the commenter's mind indicates the need to clarify this prohibition. The definition was modified as shown below:

Household hazardous waste pharmaceuticals shall mean pharmaceutical wastes (medications) that also meet the definition of household hazardous waste.

13. Page 41, 13: Is the Federal Wastewater exemption for surface waters and sewers sufficient for protection of aquatic organisms?

RIDEM Response: The Department's concern was that, as written, the federal exemption was too broad. The reason is that wastewater treatment units are exempt but there is no definition in the RCRA regulations for what a wastewater is. The fear was that this could result in concentrated hazardous waste being managed in a system not designed for that purpose. Thus, after consultation with EPA legal counsel in the preparation of this draft, we defined wastewater and restricted the exemption to units treating wastewater. The Department believes this will provide the necessary protection.

14. Page 43, (h): we advocate for a subhead (vi) 'leopardizes wildlife population under jurisdiction of state or federal authority.'

RIDEM Response: The Department does not believe that this condition is appropriate to the placement of an evaporator with a zero discharge permit.

15. Page 48, section 5.9 "Satellite Waste Accumulation": please specify that containers must be non-breakable. At quart size, it is imaginable that low quality glass, an unacceptable container for hazardous waste, could be used by a small quantity generator for architectural paint.

RIDEM Response: The Department feels that the existing requirements, that the containers be structurally sound and compatible with the waste, are more precise, enforceable and inclusive than "non-breakable."

16. Page 80, I.(b) and Page 86 I.(c) We suggest that you require emergency response numbers to be logged into cell phones associated with principals of small quantity generators in the event that the facility phones are inaccessible due to fire or fumes.

RIDEM Response: In our experience, in the event of an emergency that prevents access to the building, we would prefer employees at SQG's and CESQG's to call 911. Having a pre-programmed emergency number in their phones may make employees feel they should call this number first. For Large Quantity Generators, they have a greater sophistication and a written contingency plan and it is not as much of an issue. Also, the Department has privacy concerns

with the suggested wording as verification of compliance may require inspectors to examine personal cell phones.

17. Page 141, A. Applicability [temporary transfer stations] We suggest that 72 hours may be insufficient for take back operations to transfer architectural paint and suggest substituting 5 business days, excluding holidays, as the standard.

RIDEM Response: These standards, applicable to temporary transfer stations that bulk hazardous waste, are not intended to affect Paint Collection Centers unless the latter decide to take the waste off-site for bulking prior to shipment to a treatment facility. In speaking to Paint Care representatives, this does not seem to be the practice.

18. Pages 144-147. There are no holding time limits before transfer of materials for Community and Paint Collections Centers. Should something like 6 months or a year be required for transferring the product?

RIDEM Response: Agreed. The commenter brings up an excellent point. In reviewing past cases, the Department has enforced against companies that have accumulated large amounts of waste paint with the intent to sell and have then abandoned the building leaving paint waste behind. We have established a time frame of one year for Community Collection Centers and Paint Collection Centers.

19. Should architectural paint be classified a "Universal Waste?" Realizing that polyurethane based paints and stains and oil-based paints and stains can be highly toxic, I ask is their toxicity or their potential pathway any more harmful or lethal than mercury? Mercury also evaporates easily. I am not recommending we follow Texas and New Jersey, but trying to rationalize the process. Perhaps the question is "Should mercury containing products be removed from Universal Waste Rule" since breakage and crushing are allowed?

RIDEM Response: The Department considered two options to allow for Paint Collection Centers. The first was to treat oil based paint as a universal waste, the second was to recognize the CESQG exemption allow self transport to a location (Paint Collection Center) that is not a permitted hazardous waste facility. The Department chose the latter for the reasons below:

- 1. Upon meeting with Paint Care representative felt that the CESQG route would allow the program to work more successfully given that the program is set up to accept small volumes of waste.*
- 2. Given the small size of our state, the waste will become hazardous when it leaves the state, and would not be hazardous as soon as it enters.*
- 3. Treating oil based paints as hazardous waste would ensure greater protectiveness in their management and treatment.*
- 4. The Department was constrained by timelines in the legislation to start the program. As paints are not a federal universal waste, the state would have to go through a time consuming process to petition the USEPA to allow this classification.*

The situation is quite different for mercury containing products, which are already federally regulated as universal waste. Furthermore, many mercury containing items come from unique sources, such as auto salvage yards, heating contractors, discarded circuit boards and households. The flexibility allotted to universal waste makes it easier to serve a community not used to hazardous waste requirements and thereby, achieve a more effective recycling rate. We are greatly concerns with the release of mercury from crushing these products, which is why we

do not allow the crushing of universal waste. Several firms that manufacture bulb crushing devices have asked for the Department's concurrence to use them and we have refused for that reason.

The Department also kept this issue in mind in our response to [Glencore Recycling](#) about shredding of circuit boards.

The text below was received as an amendment to the comment above by email 12/9/2013.

Mr. Dennen:

To elucidate remarks presented orally and submitted on DEM's Hazardous Waste Rules and Regulations delivered in public hearing on December 9, 2013, I ask that the regulation of polyurethane based coatings be specified in these regulations as to whether they are included in "architectural paints." I allude to polyurethane in my remarks in my testimony item #1 on vehicles for coatings causing harm to respiratory system and explicitly refer to polyurethane in my discussion of whether "architectural paint" should be classified "universal waste" (my testimony item #19).

Thank you for this opportunity for further comment.

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RIDEM Response: We have discussed this comment with Paint Care Representatives and found that there are polyurethane products that meet the definitions of architectural paints (those intended for use in homes) and those that do not (automotive paints). Because the material has the potential to create inhalation issues, as mentioned by the commenter, the Department does not feel that it is ready to make the material a universal waste. As the regulations are currently written, oil based polyurethanes that are not, or cannot be dropped off to Paint Collection or Community Collection Centers, must be managed as hazardous wastes.

The text below was received from Eugenia Marks as part of the oral comment at the hearing but was not mentioned in the written comments:

I also was curious about why, if we're dealing with paint, we're talking about weight instead of liquid volume; and unless the can is being considered as a part of the waste, how that works. So I would like for you to take a look at that.

RIDEM Response: The Department chose to express relevant quantities as weight and not volume for the following reasons:

- 1. The limits for CESQG, SQG and LQG in our generator rules and the federal rules are expressed as weight. Also biennial reports are all converted to weight units.*

2. *It is anticipated that paint will be received in partially full containers. That are then placed in Gaylord boxes and sealed. To weigh the Gaylord container or partially empty cans will likely provide a more accurate measure of waste than to record the volume of the box or of the partially full cans. To require paint collection centers or transporter to open each can and record how full it is requires too much effort.*
3. *The paint collection center is always free to estimate the weight of a can based on density (10 lb/gallon).*

9. Dr. Theresa L. O’Keefe, PhD and Mr. James Mallowney, Pharma-Cycle Inc.

Received December 12, 2013 by email

We are delighted that the Rhode Island Department of Environmental Management is proposing changes to their Hazardous Waste Rules, recognizing the extreme danger a small category of therapeutic drugs poses to Rhode Island water and environment. We are concerned that the specific term “chemotherapy agents intended for the use in treating cancer in humans or animals” is very broad and thus will cause unnecessary problems.

We propose that a more narrow description be used – “Genotoxic Waste Material as defined by OSHA, NIOSH and World Health Organization”. Use of this description will appropriately classify the Extremely Hazardous Wastes as such while avoiding the inclusion of non-Hazardous materials.

The term “Chemotherapy agent” covers a wide range of pharmaceuticals of which some are not Hazardous to humans (NIOSH definition). Currently in the US, 213 drugs are recommended by the National Comprehensive Cancer Network (NCCN) for use in cancer treatments. The NCCN is an alliance of the world's leading cancer centers and serves as an authoritative source of comprehensive cancer care with aims to improve the quality, effectiveness, and efficiency of cancer care so that patients can live better lives. Of these 213 drugs, only 98 (46%) are Hazardous by NIOSH definition with the remaining chemotherapy agents non-Hazardous.

The term “antineoplastic agent” is not an appropriate alternative because it can encompass both Hazardous (e.g. cyclophosphamide) and non-Hazardous (e.g. Rituximab) drugs. In addition some Hazardous drugs used in cancer treatments are not “antineoplastic agents” and instead are classified as a “Biologic response modifiers” (e.g. Thalidomide).

Within the US healthcare setting, OSHA and NIOSH require all Hazardous drugs to be strictly labeled with distinctive labels. This enables healthcare workers to clearly identify all containers with Hazardous materials and to use appropriate Personal Care Protection and responsible disposal.

To these Written Comments, we are attaching a document that lists and compares the National Comprehensive Cancer Network Drugs & Biologics Compendium December 2013 with the NIOSH List of Antineoplastic and Other Hazardous Drugs in Healthcare Settings 2012. In addition we are attaching a document that lists Genotoxic agents recommended by the NCCN that are known to be excreted from patients at high levels.

RIDEM Response: The commenter raises excellent points about the vagueness and inclusiveness of definition of chemotherapy waste. See General response on Chemotherapy Waste.

Suggested Changes to Extremely Hazardous Waste Definition

Additions marked in bold; deletions mark with double cross

a. contains any **KNOWN CARCINOGEN** as designated in regulatory rule-making by any of the federal agencies (OSHA, FDA, EPA or CPSC) in concentrations or amounts at or above the federally regulated level or at 1/10 of 1% (0.1%) by weight, whichever is more stringent, of any solid or liquid mixture. This rule does not apply to asbestos waste; or

b. contains any SUSPECT HUMAN CARCINOGEN as designated in regulatory rule-making by any of the federal agencies (OSHA, FDA, EPA or CPSC) in concentrations or amounts at or above the federally regulated level or at 1% by weight whichever is more stringent, of any solid or liquid mixture. This rule does not apply to asbestos waste; or

c. Any waste that contains any U. S. Department of Transportation Class 2, Division 2.3 hazardous material (gas poisonous by inhalation), per 49 CFR 173.115 or Class 6, Division 6.1 hazardous material (poisonous materials), per 49 CFR 173.132;

d. Contains a **Genotoxic waste material as defined by the OSHA, NIOSH, World Health Organization. This may include urine, feces and vomit from patients, which may contain potentially hazardous amounts of the administered cytostatic (hazardous antineoplastic) drugs or of their metabolites** ~~chemotherapy agents intended for use in treating cancer in humans or animals.~~ Generators may petition to exempt specific ~~chemotherapy~~ **Genotoxic** wastes as per as described below:

e. A generator of ~~Chemotherapy~~ **Genotoxic** Waste (R006) who believes the classification is not appropriate may petition the Director for exclusion of a specific waste or group of wastes from the definition Rhode Island Hazardous Waste. In order to qualify for exclusion, the generator shall demonstrate the following:

- i. The Waste is not carcinogenic.
- ii. The Waste is not teratogenic, mutagenic or in other ways harmful to fetal development.
- iii. The Waste is not toxic to humans.
- iv. The Waste is not toxic to the aquatic environment.

RIDEM Response: The Department is concerned about putting in such a regulatory provision for the following reasons:

- 1. Currently the Department exempts all household hazardous waste. This would expand the scope of the regulations to cover not just waste generated in a household but by the resident himself.*
- 2. From a standpoint of enforceability, it would require a knowledge of which patients using the bathroom were undergoing what treatments, and whether those bathrooms were also used by caregivers, visitors or other patients.*
- 3. Such a broadening of scope would require a new hearing and may exceed the statutory authority of the Department.*

10. Jill Ann Parrett, P.G., Environmental Specialist TransCanada: Ocean State Power & Coolidge Generating Station

Received by email 12/16/2013

Good morning, Mark! Thank you for leading the 9 December 2013 workshop and hearing on the proposed amendments to the hazardous waste rules. I found it very informative!

I did want to offer one comment on behalf of Ocean State Power in Harrisville. Our corporate policy has always been to allow for a minimum of 3 ft of aisle space between drums/containers storing hazardous waste, as 40 CFR 265.35 requires adequate space “*to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency...*” NFPA is similarly vague, where 30 CFR 9.3.3.1 states “*storage of liquids shall not physically obstruct means of egress.*”

We are concerned about the requirements in the proposed regulations, Section 5.10, requiring a minimum of 4 ft of aisle space. Our current waste storage configuration does allow for access to all drums/containers; however, requiring an additional 1 ft of aisle space as currently dictated in the proposed amendments would be a hardship given our storage facilities. I do not believe 3 ft is in any way insufficient or imprudent, and I would ask RIDEM to consider adopting 3 ft as a required aisle space.

RIDEM Response: Agreed. See general response #6 (aisle space).

I also have one question: In Section 5.3 Hazardous Waste Determination, it states that “Equivalent testing methods per 40 CFR 260.11 (c)(1) are not allowed.” This citation refers to References in this regulation; could you clarify the code?

RIDEM Response: The citation was incorrect it was corrected to read 260.21. As the Department does not anticipate having staff available to review alternate waste determination methods, we felt that incorporation of the federal rule in this respect would imply that we will review it.

Thank you for allowing this opportunity to comment on the proposed hazardous waste regulations. We are excited to see RIDEM potentially choosing to acknowledge the Conditionally Exempt Small Quantity Generator status!

RIDEM Response: As per general response #1, we have had very positive feedback on the CESQG/SQG recognition..

Have a great day!
Jill.

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11. Kristina Richards, Project Manager, Woodard and Curran

Received via email, December 16, 2013

Dear Mr. Dennen:

This letter provides our comments on the proposed amendments to the Rhode Island Department of Environmental Management Hazardous Waste Rules and Regulations.

Rule 2.2.C.20, 21, and 29; Rule 11:

1. RIDEM adopts the EPA scrap metal exclusions in 40 C.F.R. 261.4(a)(13), 261.4(a)(14), and 261.6(a)(3)(ii), with the addition of state-specific language indicating that the scrap metal exclusion does not apply to circuit boards that are components of those electronic devices as defined by the term “used electronic device” under the universal waste rules. This language is unclear as to exactly how the scrap metal exclusions apply to circuit boards. For example, once a circuit board has been removed from a used electronic device is it eligible for the exclusion? Are circuit boards that were never components of used electronic devices (such as off-spec circuit boards that were never used and are being recycled) eligible for the scrap metal exclusion? What about circuit boards that a generator chooses to manage under the hazardous waste rules as opposed to universal waste rules (i.e, if not universal waste, are these eligible for the scrap metal exclusion)? After circuit boards have been removed from used electronic devices, are they still subject to universal waste rules (for example, how should they be labeled?) Please clarify these questions and the scope of the scrap metal exclusions as they apply to circuit boards.

In addition, based on the current regulatory language, RIDEM rules require recyclers of universal waste circuit boards to be licensed treatment, storage, or disposal facilities (TSDFs) or, under the proposed Rule 11, to obtain a streamlined circuit board recycling permit. This seems to create inconsistencies in allowable management methods for similar wastes, for example:

- Unused circuit boards (such as off-spec circuit boards being sent for recycling) are not universal waste and would be eligible for the scrap metal exclusion (i.e., are exempt from regulation altogether when recycled). It seems that used circuit boards should also be eligible for the scrap metal exemption.
- Other types of hazardous waste recycling activities, such as those involving precious metal-bearing wastes, are exempt from TSDF permitting altogether. It seems unreasonable to subject circuit board recyclers to a greater degree of regulation than recyclers of precious metal-bearing hazardous wastes (which may include wastes exhibiting a greater degree of hazard than circuit boards).

We suggest that RIDEM consider alternatives to the existing and proposed rules applicable to circuit boards.

RIDEM Response: The Department is concerned about the regulatory burden and enforceability of requiring different standards for circuit boards that are managed from covered units versus other circuit boards. Therefore the definition of 2.2 C (20) has been modified as follows:

20. Add to 261.4(a)(13), “This scrap metal exclusion does not apply to circuit boards that are components of used electronic devices as defined in Rule 3,

or circuit boards that have been received for shredding, crushing, or other size reduction activities of printed circuit boards.”

Also Rule C (21) was deleted as it is not necessary given the conditions in C (20)

21. In 261.4(a)(14) add “(iii) not components of those electronic devices as defined by the term “used electronic device” in Rule 3.”

While we agree this could be permitted under universal waste rules, it would not be significantly different than putting those permit requirements under Rule 11.

Rule 3, Definition of “Rhode Island Hazardous Wastes”

22. RIDEM regulates wastes containing polychlorinated biphenyls (PCBs) as state regulated hazardous waste R007. We suggest that RIDEM eliminate PCB waste from its state-regulated wastes because these wastes are sufficiently regulated under the EPA Toxic Substances Control Act (TSCA). The TSCA rules in 40 C.F.R. Part 761 establish PCB waste storage and disposal standards that are equally protective as compared with hazardous waste regulations, for example, TSCA establishes:

- Storage area standards such as requirements for roof and walls, secondary containment with a minimum 6-inch high curb, floors constructed of non-porous material to prevent penetration of PCBs, etc.;
- Marking requirements identifying PCBs and the date that items were removed from service for disposal;
- Time limits for allowable onsite storage (e.g., temporary storage in compliance with specified conditions for up to 30 days, storage of PCB remediation or bulk product waste at the site of generation for up to 180 days in compliance with specified conditions, or storage at permitted commercial storage facilities for no longer than one year);
- Routine self-inspection and recordkeeping requirements;
- Requirement for PCB waste generators to obtain an EPA ID number;
- Requirement for PCB waste shipments to be accompanied by a uniform hazardous waste manifest, and to follow manifest recordkeeping and exception reporting requirements; and,
- Stringent standards for disposal facilities that treat, store, and dispose of PCB wastes.

Regulation of PCB wastes under both programs is redundant and potentially confusing for generators. For example, the hazardous waste regulations allow for satellite accumulation of hazardous wastes for an indefinite period of time, whereas the PCB regulations do not provide for satellite accumulation. A generator might accumulate PCB wastes in full compliance with hazardous waste rules at a satellite accumulation area, but at the same time be in violation of TSCA PCB waste storage rules. Having two sets of similar, but different standards creates unnecessary confusion for generators.

In addition, regulated PCB wastes also meet the definition of R006 waste. We suggest that if PCB wastes continue to be regulated as state-regulated hazardous waste the phrase “or PCB waste (R007)” be added after “asbestos waste” in paragraphs a and c.

RIDEM Response: As the commenter points out, the federal regulations govern PCB’s under a completely different regulatory framework (TSCA) than RCRA. As the state has no federal

equivalent of the TSCA rules, RIDEM, like many New England states, feels that the hazardous waste regulations are the most appropriate mechanism to regulate these wastes. In doing so, the Department is exercising its prerogative to be more stringent than the federal regulations. The commenter brings up a very valid point regarding satellite accumulation. Given the nature of PCB generation, one would expect satellite accumulation of this material to be a very rare occurrence. Nevertheless, the regulations have been modified to add a condition to satellite accumulation requirements prohibiting storage of PCB wastes in satellite accumulations areas.

The Department agrees with the point of exempting the wastes from the R006 definitions as regulatory levels are already set in these Rules.

23. RIDEM is proposing to add state-regulated waste (R009) for “any waste that contains mercury or any mercury-added products that are disposed of as waste” that are not sent for recycling in accordance with the universal waste rule. We suggest that this be eliminated based on the following:

- There is already a ban on solid waste disposal of mercury-added products pursuant to the Mercury Reduction and Education Act; therefore, there is no need to establish a separate hazardous waste rule related to disposal of these products.
- The RIDEM universal waste regulations already require that mercury-added products (including those that do not fail TCLP thresholds) be managed as universal waste.
- Inclusion of the phrase “any waste that contains mercury” in the definition of R009 is overly broad. Without establishing a concentration limit, this rule will be very difficult to apply.

It seems that the existing rules, as described above are sufficient; no additional regulation is needed to achieve the goal of the Mercury Reduction and Education Act (i.e., no solid waste disposal of mercury-added products). Creation of a new state regulated waste R009 is unnecessary and likely to create more confusion for generators.

RIDEM Response: The Department does feel that the best way to deal with mercury containing equipment is as universal waste. However, a waste is only a universal waste if it meets the definition of a hazardous waste in Rule 3 and is then managed as universal waste under Rule 13. The Department feels that by including mercury containing waste in the definition of hazardous waste, we can create a regulatory mechanism to enforce the solid waste disposal ban. We agree with the commenter that the phrase “any waste that contains mercury” is too broad and unable to apply to real world cleanup and was therefore removed.

Rule 3, Definition of “Rhode Island Hazardous Wastes”

24. For used oil, the definition of R010 states “any used oil that meets the definition of a characteristic hazardous waste that is subject to disposal and not sent for recycling or any used oil that is designated by the generator as hazardous waste and not sent for recycling” is an R010 waste. The first part of the sentence is stating that any used oil that exhibits a characteristic of a hazardous waste and that is not recycled should be identified as an R010 state-regulated hazardous waste. Is this the intent of this rule, or is it RIDEM’s intent that a used oil that exhibits a characteristic of a hazardous waste and that is not sent for recycling should be designated with the waste number corresponding to the characteristic (e.g., D001, D007, etc.)? If it is

the latter, we suggest changing this section to indicated that R010 applies to: “any used oil that is designated by the generator as hazardous waste and not sent for recycling, and that does not meet any of the criteria for characteristic or listed hazardous wastes in 40 C.F.R. 261 Subparts C and D or Rhode Island state-regulated hazardous wastes.”

RIDEM Response: Agreed. Regulations has been modified as suggested.

Rule 3, Definition of Satellite Accumulation

25. RIDEM is adding language to clarify that satellite accumulation containers must be located “at or immediately near” the point of generation. It is our understanding that RIDEM does not intend this rule to differ from the federal requirement for satellite accumulation containers to be located “at or near” the point of generation. Since neither term “at or near” nor “at or immediately near” is further defined, we suggest that RIDEM continue to use the term “at or near” consistent with EPA regulatory language. In addition, note that the term “at or near” (not “at or immediately near”) is used in RIDEM Rule 5.9. As an alternative to adding the word “immediately” to the term, it may be more helpful to add a clarifying note to the regulation indicating how RIDEM interprets the meaning of the phrase “at or near” as applicable to satellite accumulation.

RIDEM Response: Agreed. The Department has removed “immediately” from the definition to be consistent with federal rules.

Rule 5.3

26. The proposed hazardous waste determination rule indicates that generators may determine the regulatory status of their waste by “demonstrating in writing clear and convincing scientific evidence of the characteristics of the waste and the process(es) that generated the waste.” This language differs from EPA’s regulation in 40 C.F.R. 262.11 which states that generators may apply “knowledge of the hazard characteristics of the waste in light of the materials or the processes used” to characterize a waste. Please clarify what RIDEM considers “clear and convincing scientific evidence” for the purposes of this rule. Rule 5.9 Typographical errors were noted in Paragraphs E and G (replace “in s spill” with “in a spill”), and in Paragraph F (add the word “waste” at the end of the first sentence). In addition Paragraph F references “requirements 1-4 above”, but the above requirements are not numbered.

RIDEM Response: This requirement was meant to clarify how product knowledge is to be used in making a waste determination. DEM considers documents like the SDS required by OSHA, technical specifications for products prepared by a chemical manufacturer, internal QA/QC analysis, NIOSH data or from other similar publications. In short, RIDEM will expect the generator to have documentation to support its claim of “knowledge of the hazard characteristics of the waste”. The paragraph has been clarified as below to indicate this.

Equivalent testing methods per 40 CFR 260.21 are not allowed. Generators may also determine the regulatory status of the waste through product knowledge by demonstrating in writing clear and convincing scientific evidence of the characteristics of the waste and the process(es) that generated the waste.

Typographical errors were corrected as suggested.

Rule 5.10

27. We suggest that the required aisle space be changed from 48 inches to 36 inches and that RIDEM add language such as "...36 inches or other appropriate spacing that allows for access to containers and tanks holding hazardous waste..." because there may be circumstances where a smaller aisle space may be sufficient to provide access. As an example, consider shelving used to accumulate laboratory-sized containers that are each individually labeled and managed as hazardous waste containers. In such cases, a specific distance such as 36 or 48 inches is an overly burdensome and unnecessary requirement. In addition, since this standard, as written, appears to apply to tanks as well as containers, it is possible that a generator may currently have a fixed hazardous waste storage tank that complies with applicable codes and standards, and that complies with current RIDEM hazardous waste rules, but does not meet the 48- inch (or suggested 36-inch) requirement. We suggest considering adding language to allow tanks existing on the effective date that are not compliant with the specific aisle space requirements to be allowed to continue to operate or removing the aisle space requirement for tanks. EPA hazardous waste rules do not establish a specific minimum aisle spacing requirement.

RIDEM Response: Agreed. See general response for Aisle Space.

Rule 5.13C.5(c)

28. This rule requires a leak detection system "with an audio and visual signal" for hazardous waste storage tanks. For aboveground hazardous waste storage tanks that are completely off the floor of the containment area (e.g., tanks on cradles or legs) and that are visible for inspection, EPA has stated in written guidance (e.g., EPA Publication Number 530-SW-88-056E) that daily visual inspection is an acceptable method of leak detection. We suggest that RIDEM remove the phrase "with an audio and visual signal" from this section of the rule to avoid confusion as to whether an automatic sensor is required in all circumstances (assuming that RIDEM concurs with EPA's interpretation).

RIDEM Response: Agreed. Regulation has been modified as suggested.

Rule 5.13C.5(d)

29. This rule pertains to aboveground tanks located outdoors within secondary containment systems, and requires that "prior to releasing or discharging any accumulated precipitation the generator shall have the liquid analyzed to ensure that it is not a hazardous waste and shall comply with all applicable Federal, State and local regulations pertaining to the discharge of stormwater." It is not reasonable to require analysis of rainwater in a secondary containment area if there is no evidence of leaks or spills of hazardous waste. Depending on the waste accumulated in the tank, the cost of laboratory analysis prior to each discharge could be significant. In addition, waiting for laboratory results in a standard two-week turnaround would mean that rainwater would remain in the secondary containment area

for longer than 24 hours and that waste containment volume would be taken up by rainwater, which is not protective of the environment. We suggest that this sentence be removed, or be revised to state that collected rainwater should not be released if any evidence of hazardous waste spills/releases are observed.

RIDEM Response: Agreed. Regulation has been modified as shown below:

Prior to releasing or discharging any accumulated precipitation the generator shall visually inspect the accumulated liquid and storage tanks looking for signs of a release of hazardous waste. In the event that visual evidence of a release is observed the generator shall collect a sample of the accumulated liquid and have it analyzed to determine if it meets the definition of hazardous waste. Generators shall manage the accumulated precipitation in accordance with all applicable Federal, State and local regulations pertaining to the discharge of stormwater.

Rule 5.13C.8.b., 5.14C.3.(b)

30. These sections require generators to post a written log (documenting when hazardous waste was first placed into or removed from a tank) on the tank or within ten feet of the tank. We suggest this posting requirement be removed to provide flexibility for generators who may maintain tank inventory logs electronically or at a specific location (such as a control room) that may not be located within 10 feet of the tank.

RIDEM Response: Agreed. The sentence requiring the written log be posted on the tank within 10 feet of the tank has been removed.

Rule 5.13C.8.h.

31. This section states “Generators shall provide for its tank systems a closure plan, closure cost estimate, closure financial assurance, and perform closure activities and post closure-care, if applicable, all in accordance with 40 CFR 265.197 requirements, except for 265.197(c). At closure of a tank system, the wastes and tank system components shall be removed or decontaminated, as appropriate, per 40 CFR 265.197 requirements.” EPA has clarified that generators are not required to prepare a closure plan, closure cost estimate, or maintain financial assurance for closure (as stated in 40 C.F.R. 262.34 where EPA indicates that generators are exempt from Subparts G and H of 40 C.F.R. Part 265 except for 265.111 and 265.114, and as stated in EPA guidance (e.g., EPA Publication No. 530-R-98-0051)). We recommend that the first sentence of this section be deleted to avoid confusion regarding applicable generator closure requirements.

Agreed. We have conferred with USEPA on the intent of the federal rule that was quoted and have modified the rule as shown below:

Closure and Post-Closure Care Actions: At closure of a tank system, LQGs must remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated soils, and structures and equipment

contaminated with waste, and manage them as hazardous waste (if they meet the definition of such in Rule 3). If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required, then the owner or operator must close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills (40 CFR 265.310). In addition, for the purposes of closure, post-closure, and financial responsibility, such a tank system is then considered to be a landfill and the closure plan, closure activities, cost estimates for closure, and financial responsibility for tank systems must meet all of the requirements of 40 CFR 265 Subparts G and H.

32. These sections specify generator container labeling requirements. We recommend that the requirement to label containers with the accumulation start date be included in this section. Although it is stated previously in Rules 5.13B.1 and 5.14B.1, it would be more clear to include it here as well.

The Department has placed marking the container in section B1 (hazardous Waste Accumulation in Containers) as opposed to labeling as the former emphasizes daily practice. This is in step with federal regulations. As with our federal counterparts, failure to label a container is considered as more serious violation than omission of the start date. For that reason, the Department believes they should be listed in different sections.

Rule 5.13F.2., 5.14D.2

33. These sections specify generator tank labeling requirements. Since hazardous waste tanks are fixed and remain at the generator site, it seems unnecessary to require generators to label tanks with the name and address of the generating facility. In addition, it appears that Rule 5.13F.2.(d) in this list for satellite accumulation should be re-numbered as Rule 5.13F.3.

RIDEM Response: Agreed. Regulation has been modified as suggested.

Rule 5.13G., 5.14E, 5.15F

34. These sections require notification to RIDEM in the “event of an actual or threatened spill or release of hazardous waste or material that presents any risk of injury to human health or the environment.” As written, this requirement is difficult for generators to interpret (e.g., what does RIDEM consider to be a “threatened spill” and under what circumstances would this require notification). We suggest that RIDEM consider revising this language to be more consistent with EPA notification requirements in 40 C.F.R. 265.56(d) which requires notification when “the facility has had a release, fire, or explosion which could threaten human health, or the environment, outside the facility.” At the very least, guidance on the meaning of “threatened spill” should be provided. Also, “hazardous material” does not appear to be defined in the Hazardous Waste Regulations. We suggest that a definition be added.

RIDEM Response: Agreed. Regulation has been modified as suggested except that we have deleted the provision “outside the facility” to encompass incidents involving a release on a

facility's property. However we have written it as "hazardous waste or hazardous material" to be more clear. It is our intention to include hazardous material as it may become hazardous waste when released to the environment.

Rule 5.13H.2, 5.14F.2

35. These sections state that generators shall equip their facilities with the specified equipment "unless hazards posed by waste handled at the facility would not require a particular piece of equipment." At the end of the paragraphs, the rules state that the equipment "shall consist of at least the following." The use of "at least the following" is contradictory to the first sentence in each of the paragraphs.

RIDEM Response: Agreed, at least was deleted from the regulations.

Rule 5.13I, 5.14G

36. This section states that "all of its employees whose job duties involve the handling or management of hazardous waste" must be trained. EPA guidance has made it clear that the training requirements apply to personnel with responsibilities at main accumulation areas and not to personnel only involved with waste at satellite accumulation areas. We suggest that the applicability of the training requirements be clarified to be consistent with EPA's regulations.

RIDEM Response: If an employee handles hazardous waste, they will need to be trained to handle it in compliance with the regulations based on the nature of their job activity. The nature of training necessary is job specific, but we, like our counterparts in other New England States, do not believe it is appropriate to do away with all training requirements for those accumulating in satellite areas. Section 5.14E (formerly 5.14G) already provides significant flexibility to generators who only accumulate in satellite containers.

Rule 5.13I, 5.14G

37. This section states the "training program shall contain and cover at a minimum the following information." Since there is reference to "tanks" in this section and a generator may not store waste in tanks and because some of these items may not be the responsibility of all personnel subject to training, we suggest adding "as applicable" to the introductory language.

RIDEM Response: Agreed. The regulations have been modified using the words "as appropriate."

Rule 5.14.H., 5.15H

38. These rules require SQGs and CESQGs to post emergency contact numbers "next to any and all telephones." We suggest that this be revised to require the list at telephones near the hazardous waste storage areas. In addition, these rules require SQGs and CESQGs to "conspicuously mark the location of fire extinguishers, spill control equipment and fire alarm (if present) and post the location of these items next to any and all phones." We suggest changing this to require posting locations of emergency equipment near hazardous waste storage areas at the facility rather than at every phone, which would include phones in all offices, an overly burdensome requirement.

RIDEM Response: Agreed. Regulations have been changed as suggested.

Rule 13.5

39. **Rule 13.5H.1(c)** allows small quantity handlers of universal waste used electronics to collect different types of display devices, cathode ray tubes, and used electronics in the same container. However, labeling options for used electronics in Rule 13.5I.1. include only “Cathode Ray Tubes” or “Used Electronic Devices not Containing CRTs;” there is no appropriate labeling option for containers holding both CRTs and other types of used electronics. We suggest “Used Electronic Devices” be added as an option.

RIDEM Response: Agreed. Regulations have been changed as suggested.

Rule 15.4B.1.

40. This section states that “ASTs used by used oil generators to store used oil shall be registered with the Department and managed in accordance with the Department’s Oil Pollution Control Regulations.” There is no rule in the Department’s Oil Pollution Control Regulations that requires ASTs to be registered. As such, we suggest that this line be removed from the regulations.

RIDEM Response: The Regulation has been modified as shown below:

ASTs used by used oil generators to store used oil shall be registered with the Department. AST’s shall follow the management standards outlined in Section 10 of the Department’s Oil Pollution Control Regulations;

We appreciate your consideration of our comments. If you have any questions please feel free to contact us at (401)273-1007.

Sincerely,

WOODARD & CURRAN INC.
Kristina Richards
Project Manager
KAR

12. Joe Rotella, Special Waste Manager, Rhode Island Resource Recovery Corporation.

Received by email 12/16/2013

Thank you for the opportunity to comment on the proposed Rules and Regulations for Hazardous Waste Management. I have made the following comments on this document. Please find below comments respectfully submitted by the Rhode Island Resource Recovery Corporation regarding the Department of Environmental Management's draft Rules and Regulations for Hazardous Waste Management.

RIRRC would like to take this opportunity to thank the Department for undertaking this effort. The enormity of the process is appreciated.

It is understood that when determining the generation levels for SQG, CESQG, and LQG, the levels are being considered in the aggregate. However, we would ask the Department to consider the type and characteristics of the materials, particularly regarding architectural paint products. Paint products are not regulated prior to sale; it is confusing as to why the status changes post-sale. This should be clarified.

RIDEM: Response: The term "hazardous materials" as used in the US Department of Transportation Regulations (49 CFR) includes both hazardous wastes and hazardous products. The Department only has the authority to regulated hazardous waste, not products that are hazardous materials. This is because hazardous wastes have negative value, therefore there is an economic incentive to release them as opposed to other hazardous materials. With regard to paints, only quantities of paint wastes affect their generator status. The structure is identical to the federal model.

Community Collection Center shall mean a location registered with the Department to accept Household Hazardous Waste and/or hazardous waste from Conditionally Exempt Small Quantity Generators. The Community Collection Center shall include all contiguous land, structures and other appurtenances and improvements on the land used for accepting, storing, consolidating or shipping hazardous waste or used oil.

RIRRC Comment:

The hope was that by recognizing Conditionally Exempt Small Quantity Generators, RIRRC would be able to offer collection opportunities to small businesses and general contractors to properly dispose their hazardous wastes, under the same conditions as the HHW program, provided the wastes met DEM and/or Federal criteria. The service was to be provided to these groups at a significantly discounted rate from commercial disposal, to help alleviate the financial burden of hiring a special hazardous waste collector. Much of the waste being considered falls far below the threshold of a Small Quantity Generator, and if brought to the HHW facility at RIRRC by a resident, would qualify as household hazardous waste. Because the waste originated in a business setting, it is somehow "different". RIRRC was hoping the draft regulations would address this discrepancy and revise the interpretation of household hazardous waste to include certain wastes generated by businesses, such as paint.

RIDEM: Response: As the federal RCRA regulations define and regulate CESQG generated hazardous waste differently than household hazardous waste, we believe it would not only cause confusion but be less strict than federal regulations which would cause the Department to loose authorization from USEPA.

RIRRC would like to have a Community Collection Center and we would like to be able to help small businesses and mom and pop contractors who would like to do the “right thing” but for either cost, or regulatory restrictions are unable to utilize proper disposal of hazardous waste. The Eco-Depot offers a valuable service to the residents of the State of Rhode Island and would like to pass our economies of scale on to contractors. Large quantity generator status would be a deterrent to any entity that would like to start such an operation. For this reason we would suggest that a change is made in the rules and regulations. Or at the very least that a distinction be made that faculties that are owned or operated by the state of Rhode Island or any sub-division of the state or quasi-public agencies are different than a for profit or not for profit company.

RIDEM: Response: The Department created the category of Community Collection Center and recognized the self-transport options for CESQGs for all kinds of waste so that organizations like RIRRC to be able to perform these activities and offer CESQGs economy of scale. As it is expected that such an operation could take large quantities of hazardous wastes from a variety of generators, we feel the designation of LQG is appropriate for this activity. Unlike some of our neighboring states, Rhode Island does not charge a fee for LQG status.

Rule 5.1

B. Exemptions:

- 1 These rules do not apply to household hazardous waste generated by non-business activities at single and/or multiple family residences, subject to the household hazardous waste exemption in 40 CFR 261.4(b)(1). However, owners and/or operators of facilities that accept household hazardous waste, other than household hazardous waste pharmaceuticals, shall comply with the requirements for Large Quantity Generators in this Rule and upon receipt the household hazardous waste shall be subject to full regulation as hazardous waste.

RIRRC Comment:

There is confusion regarding why facilities that accept household hazardous waste generated by non-business activities should be considered a Large Quantity Generator, considering that HHW, according to RCRA 40 CFR §261.4 Exclusions, “If a material meets an exclusion from the definition of hazardous waste, it cannot be a hazardous waste, even if the material technically meets a listing or exhibits a characteristic”. HHW, by Federal definition, does not meet the definition of hazardous waste requiring special handling. Therefore, there can be no generation of the material needing regulation.

We would like to point out that there is a distinct difference between a for-profit company and any household hazardous waste faculties that are owned or operated by the state of Rhode Island or any sub-division of the state or quasi-public agency. We would

ask that the latter not be considered a large quantity generator (LQG). These types of programs are set up for the benefit of the citizens of the State. We would stress that the Eco-Depot is in a very unique position providing safe, convenient and proper disposal of household hazardous waste to the residents of the State free of charge. This is a valuable service that homeowners rely on and participate voluntarily. As you are aware this is a program that Rhode Island Resource Recovery continues to fund for the good of the public wellbeing and to prevent toxic chemicals from being improperly disposed of or ending up in our drinking water. The important relationship that we facilitate between the homeowner and the contractor is truly unique to most business models and is really the round peg for the square hole. But it is done for the good of the State. However we do appreciate that that we fact HHW is exempt from biennial reporting in Rule 5.13 (l).

RIDEM Response: The Department thinks that this status is warranted given the quantity and nature of material that can be accepted.

Rule 5.13

L. Biennial Reports:

LQGs shall prepare and submit a biennial report (on appropriate forms provided by the Department) in accordance with the provisions of 40 CFR 262.41. The report shall be submitted to the Department by March 1 of the even-number year, that reports hazardous waste activities for the immediately preceding odd-number year. Additional reporting, as per 40 CFR 262.43, may also be required. Household hazardous waste shall be exempt from reporting in the biennial report.

RIRRC Comment:

- We support the exemption of biannual reporting for Household Hazardous Waste.

RIDEM Response: Agreed.

Thank you for your time and consideration,
Joe Rotella,
Special Waste Manager, Rhode Island Resource Recovery Corporation.

13. Jamie Rhodes, RI Director, Clean Water Action-
Received and revised by email 12/16/2013

Thank you for hosting the informational session to explain DEM's efforts to revise Rhode Island's Hazardous Waste Rules and Regulations. This session was critical in providing understanding and guidance for regulated industry, advocates and other stakeholders.

Clean Water Action (CWA) is a national grassroots environmental organization committed to policies that protect our environment and public health while engaging our members to make democracy work. CWA has roughly 30,000 Rhode Islanders, and on their behalf, worked with industry, government and environmental groups to craft the legislation, now codified in 23-24.12, to establish an industry operated program for the safe and convenient collection of discarded architectural paint.

These comments are focused on how these regulatory changes may impact this program. Paint Collection Centers should not be, by definition, classified as Large Quantity Generators.

This definition is contrary to the policy and intent of the legislation as enacted. RI Gen Laws § 23-24.12-1 states the law is designed to, inter alia, "To establish a cost - effective, convenient, statewide system for the collection, recycling and reuse of post-consumer paint." By requiring Paint Collection Centers (PCC) to abide by the regulatory standards of a Large Quantity Generator (LQG), the program would likely not be either cost-effective or convenient. There are two key requirements of LQG's that would reduce participation by retailers: a) receiving an Environmental Protection Agency (EPA) Identification (ID) number, and b) spacing requirements for waste storage.

a. Paint Collection Centers should not need an EPA ID.

The rationale that was provided in the informational workshop was that PCCS should not be invisible to regulators. Key considerations are where paint is being collected and in what amounts. RI Gen Law §23-24.12-3(c) delineates minimum responsibilities for the paint industry in developing and implementing a program that includes, "...

(6) Identify, in detail, the operational plans for interacting with retailers on the proper handling and management of post-consumer paint

...

(8) Include the targeted annual collection rate

...

(9) Include a description of the intended treatment, storage, transportation and disposal options and methods for the collected post-consumer paint..." Each of these minimum requirements address the concerns that led to the need to use EPA ID numbers. An alternate way to provide sufficient tracking is to require the industry program to collect the information during program operation. DEM has the authority to require adherence to these minimum requirements in accordance with RI Gen Law §23-24.12-3. DEM can refuse to approve a program on the grounds that the plan does not meet the minimum requirements as established by law. Annual reports provided to state regulators in Oregon by this same program has included such information. It should be expected that the same program in RI will utilize similar data collection methods as Oregon.

RIDEM Response: As per general response #2-4, the Department has decided to provide additional regulatory relief.

b. Minimum aisle space requirements for paint collection are too onerous. Proposed Rule 5.10 establishes that all LQG's must have forty-eight (48) inches of aisle space in "all areas of the facility where hazardous waste is stored..." The expectation is that the primary collection points will be retailers who volunteer to provide this collection option to its customers. It is impossible to know the variety of spacing options that retailers will have when considering participation. By having a rigid minimum requirement for all aisles in an area where paint is collected, retailers may not be able to serve as a collection point, undermining the effectiveness of the overall program.

RIDEM Response: Agreed. As per Department general response to Aisle Space, the Department has reexamined and changed this requirement to 3 feet for consistency with the federal requirement.

PCC's should be treated as Conditionally Exempt Small Quantity Generators (CESMQ). RI Gen Law §23-24.12-4 directs DEM to recognize the EPA's definition of a CESMQ. The intent behind including the directive within this statute implies that such a designation should be applied to PCC's. DEM, however, does utilize this designation in an effort to make program participation easier for retailers.

Most, perhaps all, PCC's will collect paint in amounts below the CESMQ guideline, especially if measurement is limited to actual hazardous material collected not including packaging materials such as metal and plastic cans and lids. By applying CESMQ status to those PCC's that meet the weight based requirement for the status.

In summary, Clean Water Action believes that the paint collection program, to be successful, needs to be convenient to consumers. To be convenient to consumers; retailers need to participate. In order for retailers to participate, it needs to be simple and easy for them to do so. This law places the responsibility for properly managing unused paint on manufacturers. The regulatory structure that DEM puts in place should recognize that standard and seek to shift burdens to the industry through program development and implementation processes established within the law.

RIDEM Response: Agreed, see general responses 2-4.

Thank you for your time and attention to this matter.

Jamie Rhodes
RI Director
Clean Water Action

14. Elizabeth McCarthy, USEPA Region I,
Received by email 12/16/2013

This document provides official comments by EPA Region I on Rhode Island's draft regulations as published for public comment on November 15, 2013, "Rules and Regulations for Hazardous Waste Management." Under the Resource Conservation and Recovery Act (RCRA), in order for a state to be authorized to administer its hazardous waste program in lieu of the federal RCRA program, the states must adopt regulations equivalent to federal regulations under Subtitle C of RCRA which must be at least as stringent as and consistent with the federal RCRA requirements. Rhode Island's current proposed draft regulations include updates to their previously promulgated and authorized hazardous waste regulations dated June 2010. EPA has reviewed these updated rules to ensure the requirements are no less stringent than existing federal requirements.

The Region supports the State's initiative in these regulations to adopt generator treatment in containers and tanks rules in binding regulatory form, rather than relying on policy interpretations. This will make the requirements clearer and more readily enforceable. The Region commented on earlier drafts of these regulations, and the changes already made by the State address all of the Region's concerns. The Region has no further comment on these regulations.

Similarly, the Region supports the State's initiative in these regulations to adopt requirements for evaporator units operated by generators – that will ensure that such units are safely operated but without requiring the generators to obtain RCRA treatment permits. The Region also commented on earlier drafts of these regulations, and the changes already made by the State address all of the Region's concerns. The Region has no further comments on these regulations.

Below are comments we provide on Rhode Island's above-referenced draft Public Notice regulations. The revisions suggested below are reflected in the mark-up of the proposed draft regulations included as an attachment to these comments. Additionally, there are a number of minor formatting issues that the state must address which are included in the mark-up version of the proposed regulations but not in the following comments.

2.2 Adoption by Reference

1. Regarding the State's adoption of the exclusion for 'wipes' that are cleaned and reused in rule 2.2 C.23, we suggest some revisions to the incorporation by reference, particularly to clarify that the State is not exercising its option under the federal rule to allow alternative test methods, and also to clarify how interstate shipments will work – namely that the wipes will be able to be sent to laundries and dry cleaners in other States if they allow it (i.e., also adopt the exclusion).

RIDEM Response: Agreed. Regulations have been changed as suggested.

3.0 Definitions

1. In the definition of Conditionally Exempt Small Quantity Generator (CESQG), we first recommend including the kilogram equivalent for each pound threshold in A. through C. as is done in D. Also, in addition to the 1,000 kg (2,200 lbs) storage limits of hazardous wastes accumulated on site referenced in D., references to the storage limits for 1 kg (2.2 lbs) of acutely hazardous wastes as well as the storage limits for 100 kg (220 lbs) of residue or contaminated soil, waste or other debris resulting from the cleanup of a spill

into or on any land or water, of any acutely hazardous waste need to be included. [40 CFR 261.5(a), (e), (f), and (g)]

RIDEM Response: Agreed. Regulations have been changed as suggested except that for D the conditions were changed from “or” to “and” to indicate that the CESQG must meet all of these conditions.

2. In the definition of Large Quantity Generator (LQG), again we recommend including both the pound and kilogram measurement for each threshold referenced in A. through C. Also, the onsite storage quantity exceedance references of 6,000 kg (13,200 lbs) of hazardous waste to qualify as an LQG should be added in item D, as well as the quantity exceedance references for acute wastes, i.e., the 1 kg (2.2 lbs) of acute waste and the 100 kg (220 lbs) of residue or contaminated soil, waste or other debris resulting from the cleanup of a spill into or on any land or water, of any acutely hazardous waste. [40 CFR 262 and 261.5(e)] The above-referenced revisions provide quantity limits make the generator regulations more user-friendly. Therefore, we have deleted the former general LQG definition “is a generator of hazardous waste but does not meet the definition of Small Quantity Generator or Conditionally Exempt Small Quantity Generator.”

RIDEM Response: Agreed. Regulations have been changed as suggested with the exception of the last “or” in the suggested language for D seems unnecessary.

3. In the definition of Small Quantity Generator (SQG), again we recommend including both the pound and kilogram equivalent for each threshold referenced in A. through D. Also, the qualifying onsite storage amount of 1,000 kg (2,200 lbs) should be added as well as the onsite storage limit reference of 6,000 kg (13,200 lbs) and also the storage limit references to 1 kg (2.2 lbs) for acutely hazardous waste and the 100 kg (220 lbs) amount of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill of acutely hazardous waste into or on any land or water. [40 CFR 262.34(d)]

RIDEM Response: Agreed. Regulations have been changed as suggested except that for D the conditions were changed from “or” to “and” to indicate that the SQG must meet all of these conditions.

4. Under Rhode Island Hazardous Wastes, typographical errors were corrected at A.2.c. and A.2.d. Note, you may wish to consider renumbering item (e) and (i) – (iv) as a subparagraph of (d).

RIDEM Response: Agreed. Regulations have been changed as suggested.

5.8 Recordkeeping

1. Item 5.8(A)(16) and 5.8(A)(17) have been added to include the recordkeeping requirements for generators treating wastes in tanks and containers and evaporators, respectively. The list of recordkeeping requirements was not complete.

RIDEM Response: Agreed. Regulations have been changed as suggested.

5.13(C) Accumulation in Tanks

1. In 5.13(C)(1)(c)(ii)(c) for New Tank System Evaluation, we have deleted a section which only applied to existing tank systems. Also, you currently have not incorporated the requirements of 265.192(b) for an installation inspection prior to covering, enclosing or placing a new tank system in use. We have indicated the applicable sections (either in 5.13(C)(1)(c)(ii)(c) or in 5.13(C)(3) for New Tank System Installation Tasks) where you must include these federal requirements.

RIDEM Response: Agreed. Regulations have been changed as suggested.

2. You have not included the federal requirements of 265.192(d – e) for ancillary equipment with secondary containment in new tank systems. These must be included or RI will be less stringent than the federal regulations. We have provided a notation where to address the minimum federal requirements of 265.192(d – e) in 5.13(C)(1)(c)(ii)(h).

RIDEM Response: Agreed. Regulations have been changed as suggested.

3. The federal requirements for certification of tank design and installation in 265.192(g) which are cited in section 5.13(C)(7) includes all of the requirements you have already written verbatim. It is confusing to write out RI state specific regulations and then cite a federal regulation describing the same criteria. We suggest deleting the reference to the federal regulation.

RIDEM Response: Agreed. Regulations have been changed as suggested.

4. Please see the formatting edits in 5.13(C)(8)(f) and 5.14(C)(3)(f). The prior format resulted in incorrect requirements for ignitable and reactive wastes. This is also applicable to SQG section in 5.14(C)(3)(f).

RIDEM Response: numbering was changed at the locations suggested but to a scheme consistent with the rest of the section.

5. The Region supports the State's initiative to adopt a more user-friendly document for generators by writing federal regulations verbatim as opposed to incorporating the federal regulations by reference. However, we strongly suggest that the following regulations also be written verbatim:
 - a. 40 CFR 265.192(a)(3) cited in 5.13(C)(1)(c)(ii)(d) and 5.13 (C)(3)
 - b. 40 CFR 265.192(f) cited in 5.13(C)(1)(c)(ii)(d)
 - c. 40 CFR 265.193(e)(2) cited in 5.13(C)(5)(e)(ii)
 - d. 40 CFR 265.193(f) cited in 5.13(C)(5)(f)
 - e. 40 CFR 265.195(f) cited in 5.13(C)(6)

These changes will make RI's regulations more user-friendly for generators.

RIDEM Response: Agreed. Regulations have been changed as suggested.

5.13(F) and 5.14(D) Labeling

1. Edits have been made to the format in the labeling sections in 5.13(F) and 5.14(D) to properly include satellite waste accumulation requirements.

RIDEM Response: Agreed. Regulations have been changed as suggested.

5.13(K), 5.14(I) and 5.15(I) Waste Shipment

1. In the Waste Shipment rules for LQGs, SQGs and CESQGs, the reference to R006 waste under “paragraph (L)” in item 1. is incorrect. The correct reference is “paragraph A.2.” Please make the correction in sections 5.13.K., 5.14.I., and 5.15.I.

RIDEM Response: Agreed. Regulations have been changed as suggested.

2. In the generator sections of RI’s draft regulations, at 5.13.K., 5.14.I., and 5.15.I., we recommend, as we did in item 6. in our email dated 11/1/13, that RIDEM include a cross reference to the Authorized Manifest Signers List requirement at 5.7.

RIDEM Response: Agreed. Regulations have been changed as suggested.

3. Relating to the exception reporting requirements of 40 CFR 262.42(a)(1) and (2), RIDEM modified the requirements in Rule 5.13.K.12., 5.14.I.12, and 5.15.I.12 as requested in item 7.b. of our email referenced above; however, the original incorrect text appears not to have been removed. As such, please remove rule 5.13.K.13., 5.14.I.13. and 5.15.I.13.

RIDEM Response: Agreed. Regulations have been changed as suggested.

4. Also, relating to previously requested changes in the Waste Shipment area of the LQG, SQG and CESQG regulations in our 11/13/13 email, in each of those rules (5.13.K, 5.14.I, and 5.15.I.), please remove the reference in item 9., to “40 CFR 262.23(c) or (d)” as these requirements are already specified in items 7. and 8. just above it. It is confusing to include both verbatim requirements and to reference the federal citation for those requirements. Also, in 5.15.I., one of the recommended changes to the Waste Shipment areas was to remove transporter information relating to water or rail shipments. This was only partially removed. As such, please remove items (a) thru (d) under item 9. of 5.15.I.

RIDEM Response: Agreed. Regulations have been changed as suggested.

5. As previously suggested in our comment letter of 11/1/13, we recommend the phrase “(including acutely hazardous waste)” in the first sentence of the CESQG requirement of 5.15.I, Waste Shipment, be removed so as not to cause confusion as it is not mentioned in the other generator waste shipment requirements. When you specify requirements for all hazardous waste, this covers acutely hazardous waste.

RIDEM Response: Agreed. Regulations have been changed as suggested.

6. Also, a general comment related to Rule 5.13.K that was previously discussed, was the removal of the term “handwritten” relating to manifest signatures as it may cause

problems with regard to electronic signatures. It is referenced several times within the Waste Shipment rules for LQGs at 5.13.K. 11 & 12, SQGs at 5.14.I. 11 & 12, and CESQGs at 5.15.I. 4, 11 & 12. And therefore should be removed.

RIDEM Response: Agreed. Regulations have been changed as suggested.

5.0 Generators

1. In rule 5.6 Generator Quantity Determination, 5.6.C should be edited to reflect the amount of waste stored is also a factor in determining generator status, i.e., LQG, SQG or CESQG, especially as it is specifically referenced in the introduction to 5.14. Small Quantity Generator (SQG) Waste Management Requirements as well as in 5.15. Conditionally Exempt Small Quantity Generators (CESQGs) Waste Management Requirements.

RIDEM Response: Agreed. Regulations have been changed as suggested.

2. In rule 5.14 Small Quantity Generator (SQG) Management Requirements, 5.14.A. should be amended to reflect that an SQG storing waste on-site for more than 180 days would be considered an operator of a storage facility, subject to TSD requirements.

RIDEM Response: Agreed. Regulations have been changed as suggested.

3. In rule 5.15 Conditionally Exempt Small Quantity Generators (CESQGs) – Waste Management Requirements, 5.15.A. should be amended to reflect that an CESQG storing waste on-site for more than 365 days would be considered an operator of a storage facility, subject to TSD requirements.

RIDEM Response: Agreed. Regulations have been changed as suggested.

10.1 Community Collection Centers

1. In Rule 10.1 regarding Community Collection Centers, the regulations should be revised to cross reference that all LQG requirements apply – rather than just referencing some. Also, as is done throughout other parts of the hazardous waste regulations, the term designated facility should be used to define the kinds of hazardous waste facilities to which the hazardous wastes must be shipped.

RIDEM Response: Agreed. Regulations have been changed as suggested.

10.2 Paint Collection Centers

1. In Rule 10.2 regarding Paint Collection Centers, there are some typos that need to be corrected – e.g., the Centers are erroneously referred to in some places as being Community Collection Centers. Also, as with the Community Collection Centers, the term designated facility should be used to describe the facilities to which wastes may be shipped. Also, if the State decides to maintain the requirement that Paint Collection Centers must meet LQG requirements, this needs to be made more clear. Just as we advised regarding the Community Collection Center regulations, the Paint Collection Center regulations should reference all LQG requirements, not just some. If, however, the State decides to apply less stringent standards to the Paint Collection Centers – such

as CESQG, SQG or LQG standards based on the amounts of waste received/generated and stored – using the standard definitions – or even just decides to establish one less stringent set of handling requirements for the Paint Collection Centers, this will not be inconsistent with federal requirements, since the Centers will be handling only household and CESQG hazardous wastes, and the EPA grants the States leeway to determine what kinds of facilities may accept such wastes. However, whatever decision is made, we do advise the State to make clearer what the requirements will be, and to check throughout the regulations all references to the Paint Collection Centers to make sure that consistent requirements are set and referenced throughout the regulations. Finally, we advise that it might be simpler to just establish one set of standards for the Paint Collection Centers – such as the standards in the Massachusetts regulations for household hazardous waste collection centers – or just having them all be SQGs - rather than having some be LQGs, some SQGs and some CESQGs., But which approach to take is up to the State.

RIDEM Response: Agreed. The Department made the suggested clarifications. As referenced in the comment, the Department, the standards were relaxed in the final version but an attempt has been made to be as clear as possible.

11.0 Circuit Board Recycling Operations

1. We have set out proposed revisions to Rule 11 on Circuit Board Recycling Operations to reflect what we understand is the State’s intent to regulate all circuit board shredding under this one set of regulations – whether the circuit boards come from used electronics and thus are universal waste or come from other appliances and thus typically are exempt prior to shredding under the scrap metal exclusion (provided of course that they are heading for recycling). We also have suggested revisions to the tracking regulations to reflect that while the incoming circuit boards will generally be universal wastes, the shredded circuit boards heading to recycling will be an exempt material – no longer a universal waste. But we do agree that the State should mandate tracking of these materials – recordkeeping – to document that they in fact are sent on for further recycling (and thus qualify as exempt materials). Note that the State also has the option of being more stringent and classifying the shredded circuit boards as also being universal waste, in which case it should make that clear – and add universal waste labeling requirements as well as maintaining universal waste tracking requirements. We are attaching a markup of the regulations which assumes that once the circuit boards are shredded and being sent for further recycling, the State would not classify them as universal waste, but whether to adopt this markup or to be more stringent is the State’s decision to make.

RIDEM Response: Agreed. Regulations have been changed as suggested.

13.0 Universal Waste

1. At 13.5.E.4., remove the term “federal” in the first sentence relating to CESQGs as RI now recognizes this category of generator.

RIDEM Response: Agreed. Regulations have been changed as suggested.

Appendix I: Manifest Form

1. The first page of the manifest form is dated 1-04; the continuation sheet is dated 1-05. Please be consistent in using the most up-to-date version of the manifest form which is 1-05.
2. Please add a “VOID” label to the first manifest page.

Appendix III: Notification Form

1. RI currently uses an outdated version of EPA’s current official form entitled “RCRA Subtitle C Site Identification Form” (EPA Form 8700-12, 8700-13 A/B, 8700-23 (Revised 12/2011) at: <http://www.epa.gov/osw/inforesources/data/form8700/8700-12.pdf>). We recommend RI use the updated version of this form as additional information has been added which is not reflected on the form the state is currently using or the information is organized differently. The form may be modified to add state’s individual needs. Also, we recognize that section 10.D. would not be included on the state’s form as it does not recognize or allow the federal University Labs Rule; similarly, the state does not recognize the federal Definition of Solid Waste (DSW) Rule and therefore would not include item 12. on the form, nor the related addendum to the notification form pertaining to DSW rule excluded secondary materials management. Important information on EPA’s current notification form which is not included on the state’s version of the form or that is organized differently, should be added, changed or reorganized as follows:
 - a. Item 1 -- Reason for Submittal. Under the last box, there is a sub-bullet which includes the following language:

“Site was a TSD facility and/or generator of >1,000 kg of hazardous waste, >1 kg of acute hazardous waste, or >100 kg of acute hazardous waste spill cleanup in one or more months of the report year (or State equivalent LQG regulations)”
 - b. Item 5 – Site Land Type -- Change ‘Indian’ to ‘Tribal’
 - c. Item 6 – North American Industry Classification System (NAICS) -- Make sure to specify that codes should contain at least 5 digits.
 - d. Item 8 – Site Contact Person. This section has expanded to include additional contact info., i.e., the contact’s address, email and fax.
 - e. Item 9 – Legal Owner and Operator. This section has expanded to include additional info. relative to the legal owner and operator of the site, i.e., the legal owner’s address and phone number.
 - f. Item 10 – Type of Regulated Activity. This section has expanded to include additional information as noted below. Also, in A.1, there is a typo in the phrase within parentheses – “two” categories should be “three” categories.
 - 10.A.1. includes an additional type of generator information, i.e., short-term generator.

- 10.A.2. RI specifies here ‘commercial transporter of hazardous waste, but you also need to include a new category of “transfer facility” under this heading.
- 10.A.3. You should move “recycler” to a separate category, then update the ‘Note’ to specify ‘Part B Permit’ and change the ‘may be’ to ‘is’.
- 10.A.4. On RI’s form, there is a category for Operating a Permit Specific Hazardous Waste Management Unit of waste generated on-site. If this is on-site treatment information that is collected during the biennial report period, you may be able to collect it using the GM form. If you decide to keep it on the notification form, you should ensure you can capture appropriately in RCRAInfo by working with EPA to add these items to the ‘look-up tables.’
- 10.A. – RI should also add a category to reflect ‘Receives Hazardous Waste from Off-site.’
- 10.A. -- RI has included additional state activities in this section and to ensure you can capture each one of these appropriately in RCRAInfo, we suggest working with EPA to add these items to the ‘look-up tables.’
- 10.B. – You have two sections with this lettering. We suggest you label the Universal Waste Activities as ‘B.’
- Change 10.B Commercial Used Oil Activities to 10.C and note the following comments that relate to the ‘C’ category:
 1. 10.C.1 & 2 – These sections should be combined into one category of ‘Off-Specification Used Oil Burner’.
 2. 10.C.3 - This section should be divided into two categories of ‘processor’ and ‘re-refiner.’
 3. 10.C.4 – This section should be divided into two categories of ‘transporter’ and also add the category of ‘transfer facility’.
 4. 10.C.5 – Used Oil Marketer should have two sections to choose from which would be (a) Marketer who directs shipment of off-specification used oil to off-specification used oil burner and (b) Marketer who first claims the used oil meets the specifications.
- 2. The state should include instructions to accompany Appendix III since there are many references within the form pointing the user to see certain sections, or at least you should mention where the instructions are available.

RIDEM Response: The Department will address these issues in its revised form. In order to provide flexibility for changes data needs, the Department will remove this form from the regulations and require the regulated entities to complete “a form provided by the Department.”

15. Beatrice PierrePlant Manager Glencore Recycling, Inc. (formerly Xstrata Recycling Inc.)

Received by email 12/16/2013

Dear Mr. Dennen:

I am writing to respond to the Notice of proposed amendments of hazardous waste rule and regulations dated November 15, 2013. I attended both the informal workshop and formal public hearing on December 9, 2013. The following comments on the proposed regulation are submitted on behalf of Glencore Recycling, Inc. within the requested seven (7) days of the public hearing.
Background - Activities of Glencore Recycling Inc.

Glencore Recycling, Inc. ("Glencore") (formerly known as Xstrata Recycling Inc.) is engaged in the re-processing of precious metal bearing materials, primarily from the electronics industry. Its operations in the State of Rhode Island comprise a receiving and distribution warehouse, engaged in the sampling and preparation of materials for smelting by its parent company in Canada. At this time 30 people are employed at the Rhode Island facility.

The recycling and re-processing of electronics serves a valuable societal goal in minimizing landfill and promoting sustainable environmental outcomes. There is no material generation of waste or disposal of electronic materials at the Rhode Island facility, and the site is ISO 14001 certified, attesting to its sustainability.

Glencore is of the view that its facility in Rhode Island falls outside of the applicable Hazardous Waste Rules and Regulations and is not a universal waste facility as, amongst other things, the relevant materials handled are not "waste" but rather are valuable commodities.

The facility does not generate waste. We note recent engagement over the issue and that the proposed amendments are intended to minimize the application of such Rules and Regulations on circuit board recycling operations in any event by creating a specific administrative permit process.

It is our respectful submission that the regulation of the electronics recycling industry under the premise of hazardous or universal waste is unnecessary, and puts Rhode Island out of step with the Federal approach and that of surrounding States. The proposed regulation is excessively complex and difficult to understand. Unnecessary regulatory burden serves to detract from the growth of an industry which ought to be encouraged given its significant economic and environmental benefits. More specific comments follow:

Rule 2.2(C)20, 21 alld 29 / Rule 5

Under 40 CFR (§ 261.4(a)(13-14)), scrap metal being recycled and shredded circuit boards being sent for recycling are excluded from the definition of solid waste. However, the Rhode Island regulation removes or limits the exclusions so as to regulate as a "used electronics device".

The need or purpose for this "exclusion from an exclusion" is unclear. Glencore submits that the State of Rhode Island should be encouraging and facilitating the recycling of circuit boards and other electronics so as to minimise landfill.

RIDEM Response: During the last round of revisions to the regulations (2010), the Department studied a number of other state Regulations including CTDEP, NJDEP, LADEQ, WIDNR, ORDEQ all of whom require a shredding facility be permitted as a RCRA TSDF in order to shred circuit boards. Therefore we also chose not to recognize the exemption and to allow this activity (shredding circuit boards) only under a RCRA permit. This was done due to concerns about human health and environmental effects of circuit board shredding. However, since that time, a convincing case was made to us that this recycling can be done in a safe and environmentally friendly manner. The Department created a permitting process that is streamlined and much more simple to address the concerns while still allowing the activity. The concerns are twofold:

- 1. The shredding of circuit boards containing toxic metals such as cadmium and mercury has the potential to impact worker health if not done safely.*
- 2. Many recyclers, particularly those that recycle e-waste, operate in volatile market conditions. As such, sometimes recyclable items are stockpiled based on current market conditions. When those conditions change, these stockpiles can be left with no mechanism to pay for their disposal. In the meantime, their uncontrolled storage can result in leaching of contaminants to the environment.*

The definitions are confusing. "Used electronic devices" are defined to mean "a device or component thereof that contains one or more circuit boards ... ". The exclusion in 261.4(a)(14) (as adopted in 2.2(C)21 of the regulation) requires that circuit boards not be components of used electronic devices. We find these terms unclear. Does this encompass circuit boards that "were" previously part of a device but are not currently within a device at the time of receipt at a facility, or only those which "are" a component of such device at the time of receipt? Although unclear, the language suggests the latter. We would appreciate confirmation of this.

RIDEM Response: Agreed. These rules have been modified as shown below:

Add to 261.4(a)(13), "This scrap metal exclusion does not apply to circuit boards that are components of used electronic devices as defined in Rule 3, or circuit boards that have been received for shredding, crushing, or other size reduction activities of printed circuit boards."

Rule 11: Requirements for Circuit Board Recycling Operations

The regulation creates a new category of facility and operating standards established to allow an activity that was said to be previously only allowed for facilities with a full RCRA Facility permit. Glencore again submits that this permitting process is unnecessary and unduly administrative, for no tangible societal benefit.

RIDEM Response: See response to comment above on Rule 2.2

As to the contents of Rule 11, we note an issue in section 11.5 which provides: "*Permitted Circuit Board Recyclers shall conduct operations in accordance with the following standards: A. The items being processed shall consist only of printed circuit boards that are being legitimately recycled.*"

Circuit boards may be just one category of a number of precious metal containing materials that are handled by a facility. Denying a facility *which* completes the Rule 11 permitting process the ability to process other materials appears unduly restrictive, illogical, and a deterrent to compliance. Rather, we assume the intent is to make clear that the processing of circuit boards

shall only be done where there is a legitimate intent to recycle. We would suggest some modification to the language used to better express the intent.

RIDEM Response: Agreed. It was not the intent to prevent legitimate processing of other items. The rule has been modified to delete the first requirement.

Conclusion

Respectfully, Glencore submits that the preferred course of action is to adopt the exclusions present in 40 CFR 261.4, including the exclusion for scrap metal and circuit boards being recycled. It is submitted that the regulation of activities of this nature under the guise of a hazardous waste regulation is unduly complex, administratively cumbersome and unnecessary. We are unaware of any cost benefit analysis on the recycling industry having been undertaken. Further, to do so would discourage recycling operations and hinder growth opportunities, and place Rhode Island at a competitive disadvantage against its State counterparts putting at risk employment and business in the State.

RIDEM Response: As explained in the response to Rule 2.2, above, the Department believes this has achieved a balance to allow legitimate recycling while preventing unsafe or environmentally destructive processes.

We trust that the above is of utility. Please feel free to contact me if you have any questions or need any further information.

Sincerely,
Beatrice Pierre
Plant Manager - Rhode Island

16. Henry Huppert, Environmental Compliance Officer, Brown University

Dear Mr. Dennen:

Brown University respectfully submits comments on the proposed amendments to the Rhode Island Rules and Regulations for Hazardous Waste Management. Brown University supports most of the changes to the regulations as they eliminate some obvious redundancies and inconsistencies with the federal regulations. Brown University requests clarification regarding several aspects of the proposed amendments and requests revisions of the proposed rule.

1) Section 3: Definitions

a) RI Hazardous Wastes:

i) A.2 The proposed regulation adds waste that contains chemotherapy agents for use in treating cancer to the R006 waste definition. The term chemotherapy agent is not defined in the regulation. Brown performs significant research on a broad range of substances to determine their potential for treating cancer and other diseases. A broad interpretation of the term chemotherapy agents could include common substances used in cancer research to be considered R006 hazardous waste. The lack of a definition of chemotherapy agents would make it difficult for Brown to properly apply the R006 code to materials generated from cancer research. Brown requests that the DEM include a definition of chemotherapy agents used to treat cancer in the definitions section of the regulation.

RIDEM Response: The Department has revised the definition as explained in General Response #5- Chemotherapy Waste.

ii) AA Mercury containing wastes (R009) states that "Mercury Containing Wastes (R009) shall mean any waste that: Contains mercury waste or any mercury-added products that are disposed of as waste..."

This definition implies that any mercury bearing waste that does not exceed the Federal TCLP limit of 0.2 mg/l would be classified as an R009 waste. As a result, materials with extremely low concentrations of mercury would be considered R009 waste regardless of the concentration. For example, if a mercury containing fluorescent bulb was broken on a carpet and the carpet was cleaned and later disposed, the carpet would be required to be managed as an R009 waste because it may contain extremely low concentrations of mercury. We do not believe that this was the intent of the definition. Based on a discussion at the December 9, 2013 information session on the amendments, RIDEM staff stated that the intent of the definition is to include mercury added products not being sent for recycling in accordance with the Mercury Reduction and Education Act only. Brown believes that DEM should modify to the definition to read as follows:

4. Mercury Containing Wastes (R009) shall mean any: Mercury –added products that are disposed of as waste. This term shall not include mercury containing wastes and mercury-added products that are sent for recycling in accordance with Rule 13 or otherwise exempt from regulation under the Mercury Reduction and Education Act (§23-24.9).

RIDEM Response: Agreed. Regulations were modified as shown below:

Mercury Containing Wastes (R009) shall mean any waste that:

Contains any mercury-added products that are disposed of as waste but do not meet the federal definition of D009 in 40 CFR 261.24. These wastes may also be managed as mercury containing equipment as per Rule 13. .

b) Satellite Accumulation

i) The definition of satellite accumulation includes a description of the location of the satellite accumulation area. Specifically, it states that containers must be "located at or immediately near any point of generation where the waste initially accumulates, and that is under the control of the operator of the process". Adding the word "immediately" to the standard language used in the federal regulations for the location of a satellite accumulation area does not add any clarity to the description. This term adds more ambiguity to the description by making it inconsistent with long used, understood terminology and also make it subject to broad interpretation of the meaning of immediately near. How close should a waste be if it is "immediately near" as opposed to "at or near"? In addition, this definition is not consistent with the definition used in section 5.9 where the term immediately is not used. We recommend removing the word immediately from the satellite accumulation definition.

RIDEM Response: Agreed. The term has been removed.

2) Section 5.6: Generator Quantity Determination

The proposed rule states "When making the quantity determinations used in the LQG, SQG, and CESQG definitions in Rule 3, the generator must include all hazardous waste that it generates" and then lists some exceptions and exclusions in AI-6 and BI-3. The definition of Hazardous Waste in Rule 3 includes RI Hazardous Waste. Under the current regulations including RI Hazardous Waste in the hazardous waste definition had little impact on facilities since all generators were subject to most LQG requirements.

Including RI Hazardous Wastes in determining generator status under the proposed regulations significantly reduces the number of facilities that can take advantage of the SQG and CESQG status and thus limits the benefit to business that was anticipated by these amendments.

Brown University believes that it is not appropriate to include RI Hazardous Waste when determining the generator status for the following reasons:

- The generator status determined under the federal regulations may be different than that calculated under state regulations. This may create confusion when determining a facility's generator status and thus which regulatory requirements apply.
- Including the RI Hazardous Wastes in determining generator status would cause more facilities that may be SQGs and CESQG under the Federal definitions to be considered Large Quantity Generators under the proposed rule and be subject to the same requirements as the current regulations. We believe the intent of adopting SQG and CESQG requirements was to reduce the regulatory burden on small businesses.
- Including RI Hazardous Wastes in determining generator status significantly reduces the benefit to small business as was anticipated by these amendments.
- Including the RI Hazardous Wastes in determining generator status may also increase the number of facilities required to complete a biennial report under the proposed regulations. Under the current regulations only LQG of federal hazardous waste are required to complete the biennial report. However, if RI Hazardous Wastes are included in the generator status

calculation, facilities that generate zero to 2,199 pounds per month of federally regulated hazardous waste could be LQG under the proposed rule due to generation of RI Hazardous Waste would now be required to complete a biennial report. Brown University and likely many other facilities including small businesses will be required to submit more biennial reports than under the current regulations if RI Hazardous Wastes are included in generator status calculations. These impacts/costs were not explored in the Regulatory Flexibility & Small Business Impact Statement or the Fiscal Note for Proposed Administrative Rules. As a result, Brown believes that RI Hazardous Wastes should not be included in calculating generator status.

RIDEM Response: Previously the Department exempted state waste from the generator status calculation. At the time, there was a large quantity of waste falling into this category. As it is, less than 5% of waste falls into the state only waste category, with the previous removal of waste oil, and now the removal of several other categories, such as slightly flammable waste, the overall quantity is expected to be much lower. Given that very few generators will change status due to state only waste, we feel it is less confusion to base status in Rhode Island on total hazardous waste generated in Rhode Island. However, the commenter is correct in his assertion that the possible added burden of a biennial report was not included in the fiscal note. Therefore, the Department is changing the wording to require the biennial report for LQG's required to submit it under 40 CFR 262.41. The wording was added that, as with SQGs the Department may require a biennial report (a provision that existed and continues to exist for SQGs as well).

3) Section 5.9 Satellite Accumulation Area

a) The first paragraph of Section 5.9 states that the generators may store waste in satellite accumulation areas "...without complying with the storage and accumulation requirements of Rule 5.13 through 5.15 provided:" they meet the conditions in 5.9 A-G.

This implies that 5.10 Aisle Space Requirements and 5.12 Pre-transport Requirements apply to containers in satellite accumulation areas. Based on discussions at an information session held on December 9, 2013 this was not the intent of the rule. If this aspect of the rule remains unchanged, Brown University would need to reevaluate and potentially modify more than 400 satellite accumulation areas on campus to accommodate this requirement without adding any tangible improvement to safe storage of hazardous waste in SAAs. Brown requests that the statement be modified to include 5.10 and 5.12 to the list of sections that do not apply to containers in satellite accumulation areas.

RIDEM Response: RIDEM has revised the statement to indicate that satellite accumulation is exempt from Aisle space requirements. Pre-transport requirements were revised to indicate that these rules come into effect when the waste is prepared for shipment off-site. This approach mirrors the requirements of 40 CFR 262.32.

b) Sections 5.9 E and G appear to be identical and we suggest Section 5.9 G be removed.

RIDEM Response: Agreed. 5.9 G has been deleted.

4) Section 5.10 Aisle Space

a) Brown University believes that the requirement to provide 48 inches of aisle space between containers is unnecessary and contrary to all previous guidance provided by the EPA and RIDEM on aisle space for the storage of hazardous waste containers. The proposed rule states that "Adequate aisle space shall be maintained of no less than forty eight (48) inches in all areas of the facility where hazardous waste is stored to allow for access to containers and tanks holding

hazardous waste by emergency personnel, fire protection equipment, spill control equipment, decontamination equipment and for inspection ... "

EPA regulation on the subject does not specify a minimum aisle space but rather requires *"the owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of the operation. "*

RIDEM's Hazardous Waste Compliance Workbook for Rhode Island Generators also clearly states that three feet is the minimum aisle space between rows of drums. While we understand that the RI regulations can be more stringent than federal regulations, changing the aisle space requirement from 36 inches to 48 inches will not provide any tangible change in the safety of hazardous waste storage.

Brown's waste storage areas and we suspect many other similar ones across the state have been specifically designed to accommodate 36 inches of aisle space between rows of drums. Changing the requirement to 48 inches would require significant modification of our hazardous waste storage rooms. In addition, since most standard doors are 36 inches, an increase of aisle space to 48 inches would necessitate increasing all doors to 48 inches to provide the same access for emergency response equipment as required by new aisle space requirement. The physical changes required by the change in aisle space requirements would impact most generators including small businesses. All generators would likely be required to make capital expenditures to meet this requirement as compared with the existing regulation. These costs were not explored in the Regulatory Flexibility & Small Business Impact Statement or the Fiscal Note for Proposed Administrative Rules and thus the 48 inch aisle space requirement should be removed or made 36 inches to be consistent with previous guidance.

RIDEM Response: As discussed on general response #6, the Department has decided that 3 feet is adequate.

5) Section 5.12 Pre-Transport Requirements

a) The language in section 5.12 does not provide adequate clarity on the precise period of time when the pre-transporter requirements come into effect. Since every hazardous waste container could be considered to be in "pre-transport" before it is loaded on a truck, the requirement could be interpreted to apply to all containers at all times until loaded for transport. We do not believe that this is the intent of the requirement. Brown suggests that the DEM revise the requirement to clarify that these requirements do not apply to satellite accumulation areas or during normal storage in less than 90 day storage areas until the containers are being prepared for transport off site.

RIDEM Response: As discussed in the response to issue 3, this section has been modified as follows [emphasis added]:

*Before transporting hazardous waste **off-site** or offering hazardous waste for transportation off-site, generators shall:*

Please call me at (401) 863-3850 if you have any questions concerning these comments.

Sincerely,

Brown University
Henry Huppert

Environmental Compliance Officer
Copy: Stephen Morin, Brown University
Patrick Humphrey, Brown University

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT



**RULES AND REGULATIONS FOR
HAZARDOUS WASTE MANAGEMENT**

Effective 18 July 1984

Amended 20 September 1984

29 January 1986

7 November 1986

24 September 1987

20 October 1988

19 April 1992

17 September 2001

12 December 2002

14 September 2005

9 February 2007

June 2010

[January 17, 2014](#)

Deleted: Draft Regulation-

Deleted: November 13, 2013

Short Title: "Hazardous Waste Regulations"

Regulation #DEM OWM-HW 01-14

Deleted: 3

AUTHORITY: These Rules and Regulations are adopted pursuant to the authority of Sections 23-19.1-7, 23-19.4-3, 23-19.14-18 and 42-17.1-2(s) and in accordance with the procedures set forth in Chapter 42-35 of the Rhode Island General Laws of 1956, as amended.

**RULES AND REGULATIONS FOR
HAZARDOUS WASTE MANAGEMENT
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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

RULES AND REGULATIONS FOR HAZARDOUS WASTE MANAGEMENT

1 FINDINGS AND POLICY

- 1.1 Purpose:** These *Rules and Regulations for Hazardous Waste Management* (also referred to hereafter as the *Regulations* or the *Hazardous Waste Regulations*) are intended to minimize environmental hazards associated with the generation, transportation, treatment, storage and disposal of hazardous wastes, including the hazardous waste component of mixed radioactive and hazardous waste (mixed waste), the transportation of septage, and the operation of hazardous waste treatment, storage and disposal facilities. They are also designed to promote planning and implementation of hazardous waste treatment, storage and disposal facilities where necessary and desirable.
- 1.2 Authority:** Under the *authority* of the 1956 Rhode Island General Laws, Chapters 23-19.1 and 23-19.4 (2001 Reenactment) and particularly Sections 23-19.1-5, 23-19.1-6, 23-19.1-7, 23-19.1-10, 23-24.10, 23-24.12 and 23-19.4-1 through 23-19.4-3 of that Law, the following rules and regulations are promulgated to administer this chapter, as amended, for the generation, transportation, treatment, storage and disposal of hazardous waste, including the hazardous waste component of mixed waste and the transportation and disposal of septage, and shall supersede all previous rules and regulations.
- 1.3 Administrative Findings:** The declaration of intent and public policy *enumerated* by the Legislature in Chapters 23-19.1 and 23-19.4 (2001 Reenactment), as amended, are hereby adopted as the administrative findings and policy upon which these rules and regulations are based.
- 1.4 Application:** The terms and provisions of these Rules and Regulations shall be liberally construed to permit the Department to effectuate the purposes of State law, goals, and policies.
- 1.5 Functions:** The primary functions of the Department are the regulation of hazardous wastes, including the hazardous waste component of mixed wastes, and the granting, denial, suspension or revocation of permits for the operation of hazardous waste management facilities and the granting, denial, suspension, revocation or approval of the plans and specifications for the installation of any equipment in such facilities. These functions also include the permitting of hazardous waste and septage transporters.

1.6 Severability: If any provision of these Rules and Regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

1.7 Superseded Rules and Regulations: On the effective date of these Rules and Regulations, all previous Rules and Regulations shall be superseded. However, any enforcement action shall be governed by the Rules and Regulations in effect at the time the alleged violations occurred.

2 ORGANIZATION AND METHOD OF OPERATIONS

2.1 Organization: Section 23-19.1-10 (2001 Reenactment) of the 1956 R.I.G.L., as amended, established the Department of Environmental Management as the permitting agency for hazardous waste management facilities. Section 23-19.1-6 grants the Director the authority to establish rules and regulations to ensure proper, adequate and sound hazardous waste management. Section 23-19.1-5 contains provisions that enable the Director to regulate the hazardous waste component of mixed waste. Section 23-19.4-1 establishes the Department of Environmental Management as the permitting agency for septage transporters.

Unless otherwise indicated, any reference to a Rule (e.g. Rule 5.1) shall refer to the referenced section of these *Rules and Regulations for Hazardous Waste Management*.

2.2 Adoption by Reference:

A. Various federal regulations are incorporated by reference in these Rhode Island regulations. All references to particular numbered section(s) or portion(s) of such numbered section(s) of 40 CFR or 49 CFR means that such numbered section(s) or portion(s) of such section(s) of 40 CFR and 49 CFR is or are incorporated by reference, including any cross-references to additional applicable regulations, notes, appendices, and diagrams, except where additions, modifications, or exceptions are specifically stated. When a federal regulation has been incorporated by reference with State additions, modifications, or exceptions, the governing requirements include the State changes in addition to any unchanged portions of the incorporated federal regulation. Any cross references in other State regulations to a federal regulation that has been incorporated with State changes are to that regulation with the State changes. When federal regulations are incorporated by reference, State terms are substituted for federal terms to the extent provided in Rule 3 definitions of Administrator/Regional Administrator and EPA/United States Environmental Protection Agency/U.S. Environmental Protection Agency/Agency, in addition to the other State changes specified elsewhere in these *Rhode Island Hazardous Waste Regulations*. The revision

dates of the federal regulations that are incorporated by reference are specified in Rule 3 definitions of 40 CFR and 49 CFR.

B. 40 CFR parts 260 – 261, 263 – 265, 266 (except for subpart H), 270, 273, and 124 are incorporated by reference in their entirety, except as otherwise noted in these Rules and Regulations. Rhode Island has not adopted the provisions of 40 CFR part 266, subpart H, relative to burning hazardous waste in boilers and industrial furnaces, nor has it adopted the provisions of 40 CFR part 268- Land Disposal Restrictions. Instead, those provisions are administered in Rhode Island by EPA. Rhode Island has not adopted the reduced requirements of 40 CFR part 267, relative to operating under standardized permits. Those reduced requirements do not apply in Rhode Island. Rhode Island has adopted its own regulations regarding hazardous waste generators in Rule 5 of these Rules and Regulations. These generator regulations apply in lieu of the federal requirements in 40 CFR part 262, and 40 CFR section 261.5, except to the extent that Rule 5 references particular part 262 or section 261.5 requirements. Rhode Island has adopted its own regulations regarding used oil management in Rule 15 of these Rules and Regulations. These used oil regulations apply in lieu of the federal requirements in 40 CFR part 279, except to the extent that Rule 15 references particular part 279 requirements. Any term used within these Rules and Regulations not specifically defined within Rule 3 shall be defined as in the Federal regulations. Federal statutes and regulations that are cited in 40 CFR 260 through 273 and 124, that are not adopted by reference shall be used as guidance in interpreting the Federal regulations in 40 CFR Parts 260 through 273 and 124.

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C. 40 CFR parts 260 and 261 are incorporated by reference in their entirety except as provided below and as otherwise noted in these regulations:

1. 40 CFR 260.1(a) -- delete “265” and replace with “266”.
2. 40 CFR 260.2(a) – delete “265” and replace with “266”.
3. 40 CFR 260.3 – delete “265” and replace with “266”.
4. In 260.10 delete the definition of Cathode ray tube or CRT, CRT collector, CRT glass manufacturer, CRT processing, Facility, Hazardous secondary material, Hazardous secondary material generated and reclaimed under the control of the generator, Hazardous secondary material generator, Intermediate facility, Land-based unit, Performance track member facility, and Transfer station. See Rule 3 for the State definitions of some of these terms, which should be used in place of the non-adopted federal definitions. There are no State substitutions for some other deleted definitions as they relate to federal provisions not adopted by Rhode Island.
5. In 260.10 delete the definition of “Existing hazardous waste management (HWM) facility or existing facility” and replace with: “Existing hazardous waste management (HWM) facility or existing facility means a hazardous waste management facility that is in operation on or before November 19, 1980.”

6. In 260.10 delete the definition of “New hazardous waste management (HWM) facility or new facility” and replace with: “New hazardous waste management (HWM) facility or new facility means a hazardous waste management facility that began operation after November 19, 1980.”
7. Replace definition of “Designated Facility” with the definition found in Rule 3 of these *Regulations*.
8. In 260.30 heading, delete the words “Non-waste determinations and”.
9. Delete 260.30(d) and (e).
10. In 260.33 heading, delete the words “or for non-waste determinations”.
11. In 260.33 introduction, delete the words “or applications for non-waste determinations”.
12. In 260.33(a), delete the words “or non-waste determinations”.
13. Delete 260.33(c), 260.34, 260.42, and 260.43. All of the provisions not adopted in this Rule 2.2 C 8–13 relate to determinations under the EPA Definition of Solid Waste Rule (DSW Rule), which Rhode Island has not adopted.
14. Revise 261.1(c)(4) to read “A material is reclaimed if it is processed to recover a usable product, or if it is regenerated. Examples are recovery of lead values from spent batteries and regeneration of spent solvents.” The additional sentences in the federal 261.1(c)(4) that Rhode Island is not adopting relate to DSW Rule exclusions that Rhode Island is not adopting.
15. In 261.2(a)(1), replace the words “that is not excluded under 261.4(a)” with the words “that is not excluded under 261.4(a), except that the scrap metal exclusion of 261.4(a)(13) and the 261.4(a)(14) exclusion do not apply to circuit boards that are components of those electronic devices as defined by the term “used electronic device” in Rule 3 or circuit boards that have been received for shredding, crushing, or other size reduction activities of printed circuit boards.”
16. In 261.2(a)(1), delete the words “or that is not excluded by a non-waste determination under §§ 260.30 and 260.34.”
17. Delete 261.2(a)(2)(ii) (DSW Rule).
18. Revise 261.2(c)(3) to read “Reclaimed. Materials noted with a “*” in column 3 of Table 1 are solid waste when reclaimed (except as provided under § 261.4(a)(17). Materials noted with a “-“ in column 3 of Table 1 are not solid waste when reclaimed.”
19. Revise the third column of 261.2(c) Table 1 to read “Reclamation (§ 261.2(c)(3)) (except as provided in 261.4(a)(17) (references to DSW Rule provision not included) for mineral processing secondary materials)”.
20. Add to 261.4(a)(13), “This scrap metal exclusion does not apply to circuit boards that are components of used electronic devices as defined, in Rule 3, or circuit boards that have been received for shredding, crushing, or other size reduction activities of printed circuit boards.”
21. Delete 261.4(a)(23), 261.4(a)(24), and 261.4(a)(25) (which relate to DSW Rule exclusions not being adopted by Rhode Island).

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22. Add 40 CFR 261.4(a)(26) and the associated definitions contained in Federal Register, 2013 Volume 78, Number 147, pages 46448-46485 (July 31, 2013) that contains a conditional exclusion from the definition of hazardous waste for solvent-contaminated wipes that are cleaned and reused are incorporated here as well. These provisions are incorporated here as well, with the following revisions:

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(a)No alternative test methods for determining that there are no free liquids are allowed in Rhode Island.

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(b)Solvent contaminated wipes may be sent only to laundries and dry cleaners in Rhode Island or in another State that has adopted this exclusion.

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23. Rhode Island is not incorporating and does not recognize, the conditional exclusion from the definition of hazardous waste for solvent-contaminated wipes that are disposed in that same notice. Add at the end of 261.4(b)(1): “The provisions of the household hazardous waste exemption apply, but are limited by Rules 5.1A 2 and 3, 10 and 13.5(E) of these Rules and Regulations.

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24. Delete 261.4(b)(7)(ii)(F). Manufactured gas plant waste is instead regulated unless it meets the requirements specified in this Rule 2.2(C)(32) and delete 261.4(b)(10) (UST exemption).

25. In 40 CFR 261.4(e)(3)(iii), delete "in the Region where the sample is collected".

26. Delete 261.5 and replace with the following:

261.5 **Special requirements for hazardous waste generated by CESQGs.**

(a)A conditionally exempt small quantity generator (CESQG) is defined in Rule 3.

(b)Requirements applicable to CESQGs are specified at Rule 5.1 through 5.12 and 5.15.

27. Delete 261.5(h) and 261.5(j)

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28. Add to 261.6(a)(3)(ii) the following sentence: “The scrap metal exclusion of 261.4(a)(13) does not apply to circuit boards that are components of those electronic devices as defined by the term “used electronic device” in Rule 3 or circuit boards that have been previously removed from any source; instead they are regulated as universal wastes under Rule 13 and Circuit Board Recycling Operations are regulated under Rule 11.”

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29. Delete the following rules related to cathode ray tubes: 261.4(a)(22), 261.39, 261.40 and 261.41. These cathode ray tube exemptions and provisions do not apply in Rhode Island; instead, cathode ray tubes are subject to the Rule 13 universal waste regulations.

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30. In 261.9, add the following:

(a) Used electronics as described in Rule 13.2 and defined in Rule 3;

(b) Silver-containing photo fixing solutions as described in Rule 13.3 and defined in Rule 3.

31. In 261.24(a) delete the words “(except manufactured gas plant waste)” and replace with “except manufactured gas plant remediation waste that is managed under a Department approval issued in accordance with applicable RIDEM Rules and Regulations for the Investigation and Remediation of Hazardous Material Releases, and that is not land disposed”.
32. Delete 261 Subpart H (part of DSW Rule not adopted).

D. 40 CFR Part 263 is incorporated by reference in its entirety except as provided below and in Rule 6 “Transporters” and as otherwise noted in these regulations.

1. In 263.12, replace “ten days” with “seventy-two hours (excluding Sundays and federal and Rhode Island legal holidays)”.
2. Delete 263.20(h).

E. 40 CFR Part 264 is incorporated by reference in its entirety except as provided in Rule 8 “Operational Requirements for Treatment, Storage and Disposal Facilities” and as otherwise noted in these regulations.

F. 40 CFR Part 265 is incorporated by reference in its entirety except as provided below and as otherwise noted in these regulations.

1. Delete 40 CFR 265.1(c)(8) pertaining to the farmer exemption.
2. In 265.143(g) and 265.145(g) Where the sentence "If the facilities covered by the mechanism are in more than one Region, identical evidence of financial assurance shall be submitted to and maintained with the Regional Administrator of all such Regions." appears, replace it with the sentence "If the facilities covered by the mechanism are in more than one State, identical evidence of financial assurance shall be submitted to and maintained with the State Agency regulating hazardous waste or with the appropriate Regional Administrator if the facility is located in an unauthorized State.".
3. In 40 CFR 265.191(a) and 265.191(c), compliance in Rhode Island relative to the January 12, 1988 and July 14, 1986 dates, respectively, applies only to a tank system owned or operated by a federal small quantity generator or any tank system (aboveground, onground, inground, or underground) that cannot be entered for inspection. Relative to a tank system that is not owned or operated by a federal small quantity generator and that is a tank system (aboveground, onground, inground, or underground) that can be entered for inspection, "January 12, 1988" and "July 14, 1986" shall be replaced with "December 1, 1992", wherever those dates occur in 40 CFR 265.191(a), and 265.191(c), respectively.

- G. 40 CFR Part 266 (except for subpart H) is incorporated by reference in its entirety except as otherwise noted in these regulations.
- H. 40 CFR Part 270 is incorporated by reference in its entirety except as provided in Rule 7 “Issuance, Renewal and Conditions of Facility Permits” and as otherwise noted in these regulations.
- I. 40 CFR Part 273 is incorporated by reference in its entirety except as provided in Rule 13 “Universal Waste” and as otherwise noted in these regulations.
- J. 40 CFR Part 124 is incorporated by reference in its entirety except as provided in Rule 7 “Issuance, Renewal and Conditions of Facility Permits” and as otherwise noted in these regulations.

3 DEFINITIONS

Notes: Any term used within these regulations not specifically defined within this section shall be defined as in 40 CFR 260.10, as modified by Rule 2.2.

Aboveground tank means a tank used to store or process hazardous waste or used oil that is not an underground storage tank as defined in the these Regulations.

Active portion shall mean any portion of a hazardous waste management facility that is being used or has been used in the past to unload, treat, store or dispose of hazardous waste, but does not include the closed portion.

Acutely hazardous waste shall mean materials identified in 40 CFR 261.33 (e) and wastes identified in 40 CFR 261.30(d) and in 40 CFR 261.11(a)(2).

“Administrator” or “Regional Administrator” (or "Assistant Administrator" or "Assistant Administrator for Solid Waste and Emergency Response" or "EPA Administrator" or "State Director") as used in the portions of the Code of Federal Regulations that are incorporated by reference, shall mean the Director of the Department of Environmental Management, or his/her designee, except as follows:

- A. Use of the word "Administrator" or "Regional Administrator" (or "Assistant Administrator" or "Assistant Administrator for Solid Waste and Emergency Response" or "EPA Administrator") in any section of the Code of Federal Regulations that can not be delegated from EPA to any state, including Rhode Island and that include the following 40 CFR sections: 262, Subpart E and Subpart H and 263, Subpart B regarding exports of hazardous waste; 268.5, 268.6, and 268.42(b) plus 268.44(a-g) regarding land disposal restrictions.
- B. References to the Administrator or to the Regional Administrator, appearing therein, shall be interpreted as referring to the Director, except for such references in 40 CFR 260.10 other than its use in the definition of a boiler, in 40 CFR 260.20(b) and 260.22, in 40 CFR 261.4(f)(1), in 40 CFR 261.10 and 261.11, in 40 CFR 262, Subpart E and Subpart H, in 40 CFR 264.12(a), in 40 CFR 265.12(a), in 40 CFR 268.5, in 40 CFR 268.13, in 40 CFR 268.40, in 40 CFR 268.42(b), in 40 CFR 270.2, in 40 CFR 270.5, in 40 CFR 270.10(e)(2) and (e)(3), in 40 CFR 270.10(f)(2), in 40 CFR 270.10(g)(1)(i) and (iii), in 40 CFR 270.10(f)(3), in 40 CFR 270.11(a)(3), in 40 CFR 270.14(b)(20), in 40 CFR 270.32(b)(2), in 40 CFR 271.5, in 270.110(h), and in any other section of 40 CFR not adopted by reference or not delegable to the State of Rhode Island.
- C. In A and B above, where "Administrator" or "Regional Administrator" do not mean the Director of the Department of Environmental Management, or his/her designee, “Administrator” shall mean the Administrator of the Environmental

Protection Agency, or his/her designee, and “Regional Administrator” shall mean the Regional Administrator for the EPA region where the facility is located, or his/her designee.

Architectural paint shall mean interior and exterior architectural coatings recommended for field application to stationary structures and their appurtenances, to portable buildings, to pavements, or to curbs. This definition excludes adhesives and coatings recommended by the manufacturer or importer solely for shop applications or solely for application to non-stationary structures, such as automobiles, airplanes, ships, boats, and railcars.

The term architectural paint includes both materials that meet the definition of hazardous waste (i.e. oil based paints and polyurethanes) as well as non-hazardous wastes (i.e. latex paint, water based polyurethanes). The use of the term architectural paint in these regulations is not meant to imply that the materials are or are not hazardous wastes. As with other wastes, such a determination must be made using analysis or generator knowledge as described in Rule 5 of the these Regulations.

Asbestos shall mean actinolite, amosite, anthophyllite, chrysotile, crocidolite and tremolite.

Base flood shall mean a flood that has a 1% or greater chance of recurring in any year. The *100 year flood plain* means any land that is subject to flooding as the result of a base flood.

Boiler shall mean that term as defined in 40 CFR 260.10. However, variances from this definition may be granted by the Director in accordance with the provisions of Rule 4.2 of these regulations, the provisions of 40 CFR 260.32 and the procedures of 40 CFR 260.33.

Cathode Ray Tube (CRT) shall mean an electron tube or evacuated glass container, having a cathode or negative electrode at one end, and a device typically called an electron gun that projects a beam of electrons against a luminescent screen at the opposite end of the tube. A bright spot of light appears wherever the electrons strike the screen. Cathode ray tubes, or CRTs, are used as picture tubes in television receivers, visual display screens in radar-receiving equipment, computer installations, and oscilloscopes.

Closed portion shall mean that portion of a facility that an owner or operator has closed in accordance with the approved facility closure plan and all applicable closure requirements.

Closure plan shall mean the plan prepared for closure in accordance with these rules and regulations.

Coastal high hazard area shall mean the area subject to high velocity waters, including, but not limited to, hurricane wave wash or tsunamis as designated on Flood Insurance Rate Maps (FIRM) as Zone VI-30.

Community Collection Center shall mean a location registered with the Department to accept Household Hazardous Waste and/or hazardous waste from Conditionally Exempt

Small Quantity Generators. The Community Collection Center shall include all contiguous land, structures and other appurtenances and improvements on the land used for accepting, storing, consolidating or shipping hazardous waste or used oil.

Community water system shall mean a system for the provision to the public of piped water for human consumption that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

Conditionally Exempt Small Quantity Generator (CESQG) shall mean a person who meets **all** of the conditions below:

- A. generates 220 lbs (100 kg) or less of hazardous waste in a calendar month, and
- B. generates 2.2 lb (1 kg) or less of acutely hazardous waste in a calendar month, and
- C. generates 220 lbs (100 kg) or less of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill into or on any land or water, of any acutely hazardous waste in a calendar month, and
- D. accumulates on-site a total amount of hazardous waste equal to 2,200 lbs (1,000 kg) and a total amount of acute hazardous waste that never exceeds 2.2 lbs (1 kg) and a total amount of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill of acutely hazardous waste into or on any land or water that never exceeds 220 lbs (100 kg).

Such quantity determination shall be made in accordance with Rule 5.6. [see also definitions of Small Quantity Generator and Large Quantity Generator].

Consignee shall mean a person or agent to whom something is sent.

Container shall mean any portable device in which a material is stored, transported, treated, disposed of or otherwise handled.

Contingency plan shall mean a document setting out an organized, planned and coordinated course of action to be followed in case of a fire, explosion or release of hazardous waste or hazardous waste constituents that would threaten human health or the environment.

Critical habitat shall mean that area for an endangered species as defined in the Endangered Species Act, 16 U.S.C. 1532.

Department shall mean the Department of Environmental Management.

Designated facility shall mean:

- A. A hazardous waste treatment, storage, or disposal facility that:
 1. Has received a permit (or interim status) in accordance with the requirements of parts 270 and 124 of 40 CFR;
 2. Has received a permit (or interim status) from a State authorized in accordance with part 271 of 40 CFR; or

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- Deleted: at no time stores a total amount of hazardous waste on-site that is greater than 1,000 kg (2,200 lbs) nor a total amount of acute hazardous waste that exceeds 1 kg (2.2 lbs). ¶
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3. Is regulated under § 261.6(c)(2) or subpart F of part 266 of 40 CFR; and
 4. That has been designated on the manifest by the generator pursuant to §262.20, excluding 262.20(e).
- B. Designated facility also means a generator site designated on the manifest to receive its waste as a return shipment from a facility that has rejected the waste in accordance with § 264.72(f) or § 265.72(f) of 40 CFR.
- C. If a waste is destined to a facility in an authorized State which has not yet obtained authorization to regulate that particular waste as hazardous, then the designated facility must be a facility allowed by the receiving State to accept such waste.

Destination facility shall mean a facility that treats, disposes of, or conducts on-site recycling of a particular category of universal waste, except those management activities described in 40 CFR 273.13(a) and (c) and 40 CFR 273.33(a) and (c). A facility, at which a particular category of universal waste is only accumulated, is not a destination facility for purposes of managing that category of universal waste.

Director shall mean the Director of the Department of Environmental Management, or his/her designee.

Direct recharge area shall mean any area in which precipitation percolates to the water table and flows through subsurface materials to a specified area of discharge. The specified area of discharge may be a reach of a stream, a spring, a well or a well field.

Discharge shall mean the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of hazardous waste into or on any land or water.

Disposal shall mean the discharge, deposit, injection, dumping, spilling, leaking, abandoning or placing of any hazardous waste in, on, into or onto any land, other surface, or building, or into any water, stormwater system or sewer system.

“DOT” (or **“Department of Transportation”**) as used in the portions of the Code of Federal Regulations that are incorporated by reference shall mean the USDOT (“US Department of Transportation”).

Endangerment shall mean the introduction of a substance into groundwater so as to cause the maximum allowable contaminant levels established in the National Primary Drinking Water Standards or the standards contained in the Public Drinking Water Regulations of the Rhode Island Department of Health to be exceeded in the groundwater; or require additional treatment of the groundwater in order not to exceed the maximum contaminant levels established in any promulgated National Primary Drinking Water Standard or the standards contained in the Public Drinking Water Regulations of the Rhode Island Department of Health.

“EPA” (or "United States Environmental Protection Agency" or "U.S. Environmental Protection Agency" or "Agency") as used in the portions of the Code of Federal Regulations that are incorporated by reference, shall mean the “Department’ or the “Department of Environmental Management, except as follows:

References to "EPA Identification numbers", "EPA hazardous waste numbers", "EPA test methods", "EPA publications", "EPA form(s)", "EPA Guidance", or "EPA Acknowledgement of Consent".

Use of "EPA" (or "United States Environmental Protection Agency" or "U.S. Environmental Protection Agency" or "Agency"), including its mailing address, where shown, in the following 40 CFR sections: in 260.10, in 260.11(a), in 261 Appendix ix, in 264.12(a), in 265.12(a), in 268.1(e)(3), in 270.2, in 270.10(e)(2), in 270.32(a), in 270.32(c), in 270.72(a)(5), in 270.72(b)(5), in 273.32(a)(3).

Use of "EPA" (or "United States Environmental Protection Agency" or "U.S. Environmental Protection Agency" or "Agency") in any section of the Code of Federal Regulations that cannot be delegated to any state, including Rhode Island and that include the following 40 CFR sections: 262, Subpart B, Subpart E, & Subpart H and 263, Subpart B regarding exports of hazardous waste; 262.60(c) and (e) and 264.71(d) regarding imports of hazardous waste; and 268.5, 268.6, and 268.42(b) plus 268.44 (a-g) regarding land disposal restrictions.

Use of EPA with respect to manifest registry functions under 262.21 and with respect to export requirement in 263.20(a) and (g).

Usage in the term "EPA region" in 40 CFR 260.

References to “EPA Director of the Office of Solid Waste” in 40 CFR 262.21.

References to EPA’s “International Compliance Assurance Division” in 40 CFR 264.71(a)(3) and 265.71(a)(3).

EPA Identification Number, or I.D. No., shall mean the number assigned by the Department to each generator, hazardous waste transporter, and treatment, storage or disposal facility.

Evaporation unit means a tank or tank system that:

- A. Heats wastewater to intentionally evaporate water to reduce the volume of the wastewater only and;
- B. Receives and treats or stores an influent wastewater that is a hazardous waste, or that generates and accumulates a wastewater treatment sludge that is a hazardous waste, or treats or stores a wastewater treatment sludge which is a hazardous waste and;
- C. Is not used to dispose of hazardous waste and;

- D. Has received a permit for wastewater discharge or a zero-discharge permit from the local Publicly Owned Treatment Works or the RIDEM.

Evaporation unit does not mean a sludge dryer associated with a wastewater treatment unit. Also, sludge dryers **not** associated with wastewater treatment units shall be considered hazardous waste treatment units in accordance with Rules 7 and [8](#).

Existing tank system or existing component means a tank system or component that is used for the storage or treatment of hazardous waste, is in operation and meets the following definition:

- A. A tank system that is owned or operated by a small quantity generator or any tank system (aboveground, onground, inground, or underground) that cannot be entered for inspection, and for which the installation commenced on or prior to July 14, 1986 or;
- B. A tank system (aboveground, onground, inground, or underground) that is not owned or operated by a small quantity generator that can be entered for inspection, and for which the installation commenced on or prior to December 1, 1992.

For the definitions above, installation will be considered to have commenced if the owner or operator has obtained all Federal, State, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either (1) a continuous on-site physical construction or installation program has begun, or (2) the owner or operator has entered into contractual obligations—which cannot be canceled or modified without substantial loss—for physical construction of the site or installation of the tank system to be completed within a reasonable time.

Facility shall mean all contiguous land, structures and other appurtenances and improvements on the land used for treating, storing or disposing of hazardous waste or used oil. For the purposes of implementing corrective action under 40 CFR 264.101, the term shall mean all contiguous property under the control of the owner or operator seeking a RCRA subtitle C permit. The term shall also mean all contiguous property under control of the owner or operator of an interim status facility implementing corrective action.

Fault shall mean a fracture along which rocks on one side have been displaced with respect to those on the other side.

FIFRA shall mean the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136-136y).

Flood plain shall mean that area covered by a flood that has a one percent or greater chance of occurring in any year or of a magnitude equaled or exceeded once in 100 years on the average.

Generator shall mean any person, by site, who produces hazardous waste or imports hazardous waste from a foreign country or whose act or process produces hazardous waste or whose act first causes a hazardous waste to become subject to regulation. Any person that takes possession or control of hazardous waste by obtaining property where hazardous waste is stored or abandoned shall be considered a generator. The term “generator” shall include Large Quantity Generators, Small Quantity Generators and Conditionally Exempt Small Quantity Generators.

Hazardous waste shall mean any waste or combination of wastes of a solid, liquid, contained gaseous, or semi-solid form that, because of its quantity, concentration, or physical or chemical characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or pose a substantial present or potential hazard to human health or the environment.

Hazardous waste shall also mean any hazardous waste as defined in 40 CFR 261.3 or is subject to regulation under 40 CFR 261.7 and 261.33 as well as any hazardous waste defined in Rule 3 [including Rhode Island Hazardous Waste](#). Where the phrase *solid waste* appears in the Code of Federal Regulations, the word *waste* may be substituted.

Mixed waste as defined in Rule 3.0 is also a hazardous waste.

Determination that a material is not a hazardous waste must be made in accordance with 40 CFR 260.30, 260.31, and 260.33.

The modification of 40 CFR 261.4(a)(26) contained in the 2013 Federal Register, Volume 78, Number 147, pages 46448-46485 that contains a conditional exclusion from the definition of hazardous waste for solvent-contaminated wipes that are cleaned and reused are incorporated here as well. Rhode Island does not recognize, and is not incorporating the conditional exclusion from the definition of hazardous waste for solvent-contaminated wipes that are disposed, adopted as CFR 261.4(b)(18) in that same notice.

Hazardous wastes that are recycled are subject to the provisions of 40 CFR 261.6 and the sections of 40 CFR Part 266 referenced therein, except as limited by Section 23-19.1-10 (f) of the Rhode Island General Laws and except as 40 CFR 261.6(a)(4) affects used oil that exhibits one or more of the characteristics of hazardous waste. The Director may also regulate certain recycling activities as provided by 40 CFR 260.40 and 260.41.

Hazardous waste disposal facility shall mean real and personal property acquired, constructed or operated for the purpose of the disposal of hazardous waste. This term does not include a corrective action management unit into which remediation wastes are placed.

Hazardous waste incinerator shall mean an engineered device using controlled flame combustion for thermally degrading hazardous waste.

Hazardous waste management facility shall mean a facility, excluding vehicles, for collection, source separation, storage, processing, treatment, recovery or disposal of hazardous wastes, or a transfer station for hazardous waste, and may include a facility where such activities occur and where waste has been generated.

Hazardous waste transporter shall mean a person, individual, firm, partnership, association and private or municipal corporation that transports hazardous waste.

Hazardous waste treatment or storage facility shall mean real and personal property acquired, constructed or operated for the purpose of storing or treating hazardous wastes.

Household hazardous waste shall mean waste that meets any of the definitions of a hazardous waste and which is derived from households. This definition does not include hazardous wastes generated in households as part of a business, nor shall this definition extend to wastes from hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas, except for those wastes ordinarily left behind by guests or other users of these institutions. [Hazardous waste pharmaceuticals from residential care apartment complexes or other properties that purchase, store, distribute or otherwise centrally manage medications on behalf of tenants are not considered household hazardous waste, but rather are regulated as hazardous waste.](#)

Household hazardous waste facility shall mean a facility that accepts for subsequent disposal, only household hazardous waste as defined above.

Household hazardous waste pharmaceuticals shall mean pharmaceutical wastes ([medications](#)) that also meet the definition of household hazardous waste.

Household refuse shall mean refuse generally produced at a home.

Household used oil shall mean used oil derived from households.

Household used oil generator shall mean an individual who generates household used oil.

Incineration shall mean the treatment of hazardous waste using controlled flame combustion, the primary purpose of which is to thermally break down the hazardous waste.

Incinerator shall mean any enclosed device using controlled flame combustion that neither meets the criteria for classification as a boiler nor is listed as an industrial furnace.

Incompatible wastes shall mean a hazardous waste that is unsuitable for:

- A. Placement in a particular device or facility because it may cause corrosion or decay of containment materials; or
- B. Commingling with another waste or material under controlled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes or gases or flammable fumes or gases.

Industrial furnace shall mean any device listed as such in 40 CFR 260.10 or other devices that the Director may, after notice and comment, add to the list based on one or more of the factors specified in part 13 of that definition.

Injection well shall mean a well or system of wells used for the disposal of hazardous waste by pumping the waste into deep wells where they are contained in the pores of permeable subsurface rock.

In operation shall mean a facility that is treating, storing or disposing of hazardous waste.

Land disposal facilities shall mean surface impoundments, waste piles, land treatment facilities and landfills.

Landfill shall mean a disposal facility or part of a facility where hazardous waste is placed in or on land and that is not a land treatment facility, a surface impoundment, an injection well, a waste pile, or a corrective action management unit.

Land treatment facility shall mean a facility or part of a facility where hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.

Large Quantity Generator of Hazardous Waste (LQG) shall mean a person who meets any of the following conditions:

- A. generates 2,200 lbs (1,000 kg) or more of hazardous waste in a calendar month, or
- B. generates greater than 2.2 lbs (1 kg) of acutely hazardous waste in a calendar month, or
- C. generates more than 220 lbs (100 kg) of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill into or on any land or water, of any acutely hazardous waste in a calendar month or
- D. the quantity of hazardous waste stored on-site exceeds 13,200 lbs (6,000 kg) at any one time, or the quantity of acutely hazardous waste stored on-site exceeds 2.2 lbs (1 kg) at any one time, or the quantity of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill of acutely hazardous waste into or on any land or water stored on-site exceeds 220 lbs (100 kg) at any one time.

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Such quantity determination shall be made in accordance with Rule 5.6. [See also definitions of [Small Quantity Generator](#) and [Conditionally Exempt Small Quantity Generator](#)]

Deleted: s a generator of hazardous waste but does not meet the definition of [Small Quantity Generator](#) or [Conditionally Exempt Small Quantity Generator](#).

Large Quantity Handler of Universal Waste shall mean a universal waste handler (as defined in this rule) who accumulates 20,000 kilograms or more total of used electronics, calculated collectively at any time, or who accumulates 5,000 kilograms (11,000 pounds) or more total of all other universal waste (batteries, pesticides, mercury-containing equipment, lamps, or silver-containing photo fixing solutions), calculated collectively at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year where 20,000 kilograms or more total of used electronics, or 5,000 kilograms (11,000 pounds) or more total of all other universal waste is accumulated.

Liquid shall mean any waste that expresses as separable liquid by weight thirty percent (30%) or more of the waste when exposed to a vacuum of 3/4 atmosphere for thirty (30) minutes.

Load shall mean a mass or weight of a particular hazardous waste contained in one or more transporting container(s).

Local land authority shall mean a city or town council.

Low-level mixed waste shall mean waste that contains both low-level radioactive waste and hazardous waste.

Low-level radioactive waste shall mean a radioactive waste that contains source material, special nuclear material, or byproduct material, and that is not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section 11e.(2) of the Atomic Energy Act.

Manifest shall mean the Uniform Hazardous Waste Manifest (EPA Form 8700-22, including Form 8700-22A, as shown in [Appendix I and II](#)) as defined by 40 CFR 260.10. The manifest is originated and signed by the generator or offeror on behalf of the generator in accordance with the instructions in the appendix to 40 CFR part 262 applicable requirements of Rule 5.0 and 40 CFR parts 263 – 265 as incorporated by reference at 2.2.B., D., E., and F. These requirements include the requirements to maintain a list of authorized signers in Rule 5.7 (generators) and Rule 6.5(G) (transporters).

Manufacturing and mining by-products shall mean secondary or incidental materials created in manufacturing or mining operations.

Mixed waste shall mean a waste that contains both hazardous waste and radioactive waste that is classified as source material, special nuclear material, or byproduct material subject to the Atomic Energy Act of 1954, as amended as of the effective date of these regulations.

NARM (Naturally occurring and/or Accelerator-produced Radioactive Material) shall mean radioactive materials that:

- A. Are naturally occurring and are not source, special nuclear, or byproduct materials as defined by the Atomic Energy Act, or
- B. Are produced by an accelerator.

New tank system or new tank component means a tank system or component that will be used for the storage or treatment of hazardous waste and that meets the following definition:

- A. A tank system that is owned or operated by a small quantity generator or any tank system (aboveground, onground, inground, or underground) that cannot be entered for inspection, and for which the installation commenced after July 14, 1986 or;
- B. A tank system (aboveground, onground, inground, or underground) that is not owned or operated by a small quantity generator that can be entered for inspection, and for which the installation commenced after to December 1, 1992

For the definitions above, installation will be considered to have commenced if the owner or operator has obtained all Federal, State, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either (1) a continuous on-site physical construction or installation program has begun, or (2) the owner or operator has entered into contractual obligations—which cannot be canceled or modified without substantial loss—for physical construction of the site or installation of the tank system to be completed within a reasonable time. Also, for purposes of obtaining a variance from containment and detection of leads per 40 CFR 264.193(g)(2) and 265.193(g)(2), a new tank system is one for which construction commenced after July 14, 1986. (See also “existing tank system.”)

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

Operator shall mean the person who is responsible for the operation of the facility.

Owner shall mean the person who owns the facility or part of the facility.

Paint Collection Center shall mean a location registered with the Department to accept only [architectural paint](#) that is either Household Hazardous Waste and/or is generated by Conditionally Exempt Small Quantity Generators. The Paint Collection Center shall

include all contiguous land, structures and other appurtenances and improvements on the land used for accepting, storing, consolidating or shipping hazardous waste or used oil.

PCB or PCBs shall mean any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of substances that contains such substances.

Person shall mean an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, the Federal Government or any agency or subdivision thereof, a state, municipality, commission, political subdivision of a state, or any interstate body.

Precious metal bearing wastes shall mean all materials destined for reclamation containing a concentration of gold, silver, rhodium, palladium and/or platinum that makes the waste economically recoverable including, but not limited to, plating baths and stripping solutions.

Processing Used Oil means chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used oil-derived products. Processing includes, but is not limited to: blending used oil with virgin petroleum products, blending used oils to meet the used oil fuel specifications, filtration, simple distillation, chemical or physical separation and re-refining.

Publicly owned treatment works shall mean a treatment works as defined by Section 212 of Public Law 92-500, "Federal Water Pollution Control Act" and that is owned by a state or municipality as defined by Section 502 (4) of this same law.

RAP shall mean a Remedial Action Plan as defined in 40 CFR 270.2.

RCRA (or "Resource conservation and Recovery Act" or "Subtitle C of RCRA" or "RCRA Subtitle C" or "Subtitle C") as used in the portions of the Code of Federal Regulations that are incorporated by reference, when referring either to an operating permit or to the Federal hazardous waste program as a whole (i.e., not a specific provision of RCRA), shall mean the Rhode Island "Hazardous Waste Management Act of 1978", except as otherwise noted in these Rules and Regulations and except at 40 CFR 260.10 definition of "Act or RCRA", at 40 CFR Part 262 Appendix, at 40 CFR 270.2 definition of "RCRA" and at 40 CFR 270.51 reference to "EPA-issued RCRA permit".

Remediation Waste Management Site shall mean a facility where an owner or operator is or will be treating, storing, or disposing of hazardous remediation waste.

Re-Refining Distillation Bottoms means the heavy fraction produced by vacuum distillation of filtered and dehydrated used oil.

Rhode Island Hazardous Wastes shall mean any waste meeting the below-listed definitions:

A. Rhode Island Hazardous Waste Codes R001-R010

Waste codes R001 through R010 are only to be used if the waste meets the definition associated with these codes and does not meet any of the federal definitions of a hazardous waste.

1. **Reserved:** The following waste codes are reserved: R001, R002, R003, R004, R005 and R008.
2. **Extremely Hazardous Waste (R006)** shall mean any waste that:
 - a. contains any KNOWN CARCINOGEN as designated in regulatory rule-making by any of the federal agencies (OSHA, FDA, EPA, CPSC or DHHS-NTP) in concentrations or amounts at or above the federally regulated level or at 1/10 of 1% (0.1%) by weight, whichever is more stringent, of any solid or liquid mixture. (This rule does not apply to asbestos waste or PCB waste.) or
 - b. contains any SUSPECT HUMAN CARCINOGEN as designated in regulatory rule-making by any of the federal agencies (OSHA, FDA, EPA, CPSC or DHHS-NTP) in concentrations or amounts at or above the federally regulated level or at 1% by weight whichever is more stringent, of any solid or liquid mixture. This rule does not apply to asbestos waste, or
 - c. contains any U. S. Department of Transportation Class 2, Division 2.3 hazardous material (gas poisonous by inhalation), per 49 CFR 173.115 or Class 6, Division 6.1 hazardous material (poisonous materials), per 49 CFR 173.132 other than pharmaceuticals in finished dosage forms (i.e. inhalers, capsules, tablets, syrups, injectables and ointments), or
 - d. contains chemotherapy agents that are antineoplastic or cytotoxic, including but not limited to drugs listed in the NIOSH list of Antineoplastic and Other Hazardous Drugs (<http://www.cdc.gov/niosh/docs/2012-150/pdfs/2012-150.pdf>).
3. **Polychlorinated Biphenyls (PCB) Waste (R007)** shall mean any waste that:

Contains polychlorinated biphenyls at a concentration of fifty parts per million (50 ppm) or greater. Wastes containing PCBs at a concentration of 50 ppm or greater are also subject to additional regulations under TSCA (Toxic Substances Control Act) in 40 CFR 761.
4. **Mercury Containing Wastes (R009)** shall mean any waste that:

Contains any mercury-added products that are disposed of as waste but do not meet the federal definition of D009 in 40 CFR 261.24. These wastes may also be managed as mercury containing equipment as per Rule 13.

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~~Deleted:~~ Generators may petition to exempt specific chemotherapy wastes as per as described below:¶
A generator of Chemotherapy Waste (R006) who believes the classification is not appropriate may petition the Director for exclusion of a specific waste or group of wastes from the definition Rhode Island Hazardous Waste. In order to qualify for exclusion, the generator shall demonstrate the following:¶
The Waste is not carcinogenic.¶
The Waste is not teratogenic, mutagenic or in other ways harmful to fetal development.¶
The Waste is not toxic to humans.¶
The Waste is not toxic to the aquatic environment.¶

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~~Deleted:~~ This term shall not include mercury containing wastes and mercury-added products that are sent for recycling in accordance with Rule 13 or otherwise exempt from regulation under the Mercury Reduction and Education Act (§23-24.9).

5. Used Oil (R010) shall mean:

Any used oil that meets the definition of a characteristic hazardous waste that is subject to disposal and not sent for recycling or any used oil that is designated by the generator as hazardous waste and not sent for recycling and that does not meet any of the criteria for characteristic or listed hazardous wastes in 40 C.F.R. 261 Subparts C and D or Rhode Island state-regulated hazardous wastes.

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B. Rhode Island Fee Exemption Waste Codes (R011-R016)

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The following codes indicate the waste is exempt from the Hazardous Waste Generation Fee described in Rules 5 and 6 and are to be used **in addition** to other applicable federal and state hazardous waste codes.

These waste codes are to be used in addition to applicable state and federal waste codes:

1. Secondary Waste: Waste generated by a hazardous waste management facility as a result of treatment, repackaging or storage of wastes received by the facility shall be designated as an **R011** waste. This waste code shall be used in addition to other required waste codes.
2. Precious metal bearing waste meeting the definition of a precious metal bearing waste as defined by Rule 3 of these Regulations shall be designated as an R012 waste. This waste code shall be used in addition to other required waste codes.
3. Household hazardous waste meeting the definition of a household hazardous waste as defined by Rule 3 shall be designated as an R013 waste. This waste code shall be used in addition to other required waste codes. This exemption shall also apply to architectural paints collected by Paint Collection Centers or Community Collection Centers from CESQGs.
4. Used oil or related materials that are managed in accordance with the requirements of Rule 15 shall be designated as an R014 waste.
5. Waste not meeting the definition of a hazardous waste that is transported using a manifest shall be designated as an R015 waste. This waste code shall be used in addition to other waste codes required by the destination state.
6. Removal Action Waste generated (as listed on item 5 of the Manifest) by the Department or the United States Environmental Protection Agency in the course of emergency response or environmental remediation activities. This exemption shall only apply if the applicable government agency generating the waste while performing the remediation is not considered a Responsible Party as defined herein or pursuant to R.I. General Laws § 23.19.14-3. Such waste shall bear a State waste code of **R016** code in addition to other waste codes required by the destination state.

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Use of the **R016** waste code by the generating agency shall not prohibit the Department from collecting the Hazardous Waste Generation Fee as part of a

cost recovery action from any other generator determined to be a responsible party associated with the removal action.

Satellite accumulation shall mean the accumulation of as much as fifty-five (55) gallons of hazardous waste, or the accumulation of as much as one quart of acutely hazardous waste, in containers located at or near any point of generation where the waste initially accumulates, and that is under the control of the operator of the process generating the waste.

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Sanitary septage shall mean septage from individual sewage disposal systems containing human or animal excremental liquid or substance, any putrescible animal or vegetable matter, garbage and filth, including the discharge of water closets, laundry tubs, washing machines, sinks, dishwashers and the contents of septic tanks, cesspools or privies.¶

Septage shall mean septage from individual sewage disposal systems containing human or animal excremental liquid or substance, any putrescible animal or vegetable matter, garbage and filth, including the discharge of water closets, laundry tubs, washing machines, sinks, dishwashers and the contents of septic tanks, grease traps, cesspools or privies.

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Deleted: **Septage** shall mean any solid, liquid or semi-solid removed from septic tanks, cesspools, privies, domestic wastewater holding tanks or other similar individual sewage disposal systems.

Silver-Containing Photo Fixing Solutions shall mean photographic processing solutions containing silver (hazardous waste code D011) that has been removed from photographic film and paper by the fixing agent and that fail the TCLP (40 C.F.R. 261.24) for silver and therefore meet the definition of hazardous waste code D011.”)

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Small Quantity Generator of Hazardous Waste (SQG) shall mean a person who meets all of the conditions below:

- A. generates less than 2,200 lbs (1,000 kg) but greater than 220 lbs (100 kg) of hazardous waste in a calendar month, and
- B. generates 2.2 lbs or less of acutely hazardous waste in a calendar month, and
- C. generates 220 lbs (100 kg) or less of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill into or on any land or water, of any acutely hazardous waste in a calendar month, and
- D. stores on-site a total amount of hazardous waste equal to 2,200 lbs (1,000 kg) but never greater than 13,200 lbs (6,000 kg), and a total amount of acute hazardous waste that never exceeds 2.2 lbs (1 kg) and a total amount of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill of acutely hazardous waste into or on any land or water that never exceeds 220 lbs (100 kg).

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Such quantity determination shall be made in accordance with Rule 5.6. [See also definitions of Large Quantity Generator and Conditionally Exempt Small Quantity Generator]

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Small Quantity Handler of Universal Waste shall mean a universal waste handler (as defined in this rule) who does not accumulate 20,000 kilograms or more total of used electronics, calculated collectively at any time and who does not accumulate 5,000 kilograms (11,000 pounds) or more total of all other universal waste (batteries, pesticides, mercury-containing equipment, lamps, or silver-containing photo fixing solutions), calculated collectively at any time.

Sole source aquifer shall mean those aquifers designated pursuant to Section 1424 (e) of the Safe Drinking Water Act of 1974 (Public Law 93-523) that solely or principally supply drinking water to a large percentage of a populated area.

Solid Waste Management Unit (“SWMU”) shall mean a hazardous waste management facility or any portion thereof where solid wastes have been placed at any time, irrespective of whether the unit was intended for the management of solid or hazardous waste. Such unit includes any area at a facility where solid wastes have been routinely and systematically released. SWMUs include regulated units as well as units used to manage non-hazardous solid wastes.

Specification Used Oil is any used oil that meets the minimum allowable levels for Flash Point and does not contain constituents at concentrations that exceed any maximum allowable levels listed in Table 2 of Rule 15.3(E).

“State(s)” (or "authorized state" or "approved state" or "approved program") as used in the portions of the Code of Federal Regulations that are incorporated by reference shall mean the state of Rhode Island, except as the term appears at 40 CFR 124.2(a) definitions of “Director”, “Interstate agency”, “Person” and “State”, at 40 CFR 260.10 definitions of "Person", "State", and "United States", at 40 CFR Part 262, at 40 CFR 264.143(e)(1), at 40 CFR 264.145(e)(1), at 40 CFR 264.147(a)(1)(ii), (b)(1)(ii), (g)(2) and (g)(4), at 40 CFR 265.143(d)(1), at 40 CFR 265.145(d)(1), at 40 CFR 265.147(a)(1)(ii), (g)(2), and (i)(4), at 40 CFR 270.2 definitions of “application”, "approved program or approved State", "Director", "Interim Authorization", "Final Authorization", “Major Facility”, “Person”, “Publicly Owned Treatment Facilities”, "State”, “State Director”, and “State/EPA Agreement”.

Storage shall mean the actual or intended containment of hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous waste.

Storage facility shall mean any facility that stores hazardous wastes and that has a closure plan that provides for the complete removal of all wastes.

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

Tank shall mean a stationary device designed to contain an accumulation of material, hazardous waste or used oil that is constructed primarily of non-earthen materials that provide structural support.

Tolling Agreement shall mean a contract between a used oil generator and a used oil processor/re-refiner pursuant to which used oil that is reclaimed by the used oil processor/re-refiner is returned to the used oil generator for use as a lubricant, cutting oil or coolant.

Totally enclosed treatment unit means a unit for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. An example is a pipe in which waste acid is neutralized.

Toxicity Characteristic Leaching Procedure shall mean the procedure referenced in 40 CFR261.24(a).

Transfer station shall mean an intermediate point in the transport of hazardous wastes where such wastes are brought, stored and transferred to vehicles for movement to other intermediate points or to the point of ultimate storage or disposal.

Transport shall mean the movement of wastes from the point of generation to any off-site intermediate points, and finally to the point of final storage, treatment or disposal.

Transportation Unit shall mean any car, truck, tractor, or other device used in transportation on land, water, or in the air **or** any trailer, tank or other type of containment structure permanently or temporarily attached thereto.

Transporter shall mean any person that transports hazardous waste other than on-site or that transports septage.

Treatment shall mean any method, technique, or process, including neutralization or incineration, designed to change the physical, chemical, or biological character or composition of any hazardous waste as to neutralize such waste or so as to render such waste less hazardous, non-hazardous, safer to transport, amenable to storage, or reduced in volume, except such method or technique as may be included as part of the manufacturing process at the point of generation.

Underground drinking water source shall mean an aquifer supplying drinking water for human consumption; or an aquifer where the groundwater contains less than 500 mg/l total dissolved solids; or an aquifer designated as such by the Administrator of the Environmental Protection Agency or any Rhode Island state agency authorized to do so.

Underground Storage Tank (UST) means any tank or tank system that meets the definition of a UST contained in the Rhode Island *Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials* (the “UST Regulations”).

Universal Waste shall mean any of the following hazardous wastes that are subject to the universal waste requirements of 40 CFR part 273 and that are subject to Rule 13:

- A. Batteries as described in 40 CFR 273.2;
- B. Pesticides as described in 40 CFR 273.3;
- C. Mercury-containing equipment as described in 40 CFR 273.4;
- D. Lamps as described in 40 CFR 273.5.
- E. Used Electronics as described in Rule 13;
- F. Silver-containing photo fixing solutions as described in Rule 13.

Universal Waste Handler:

A. shall mean:

- 1. A Generator (as defined in Rule 3) of universal waste; or
- 2. The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

B. shall not mean:

- 1. A person who treats (except for those activities allowed in Rule 13 ([Standards for Universal Waste Management](#))) disposes of, or recycles universal waste; or
- 2. A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

Universal Waste Transfer Facility shall mean any transportation-related facility including loading docks, parking areas, storage areas and other similar areas where shipments of universal waste are held during the normal course of transportation for ten days or less.

Universal Waste Transporter shall mean a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

Used Electronics or a “Used Electronic Device” shall mean a device or component thereof that contains one or more circuit boards or a cathode ray tube and is used primarily for communication, data transfer or storage, or entertainment purposes, including but not limited to, desk top and lap top computers, computer peripherals, computer monitors, copying machines, scanners, printers, radios, televisions, camcorders, digital cameras, digital picture frames, video cassette recorders (“VCRs”), compact disc (“CD”) players, digital video disc (“DVD”) players, MP3 players, video game consoles, portable Global Positioning System (“GPS”) navigation units, telephones, including cellular and portable phones, and stereos. “Used Electronics” or a “Used Electronic Device” shall not mean a computer, television or video display device that is: (a) a part of a motor vehicle or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer

or franchised dealer, including replacement parts for use in a motor vehicle; or (b) functionally or physically a part of, connected to or integrated within a larger piece of equipment designed and intended for use in an industrial, governmental, commercial, research and development, or medical setting, (including diagnostic, monitoring, or other medical products as that term is defined under the Federal Food, Drug, and Cosmetic Act) or equipment used for security, sensing, monitoring, or anti-terrorism purposes; or (c) contained within a home appliance, clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, or air purifier; or (d) a handheld device used to access commercial mobile radio service, as such service is defined in 47 CFR 20.3.

Used Oil means oil that has been refined from crude oil (in whole or in part), or any synthetic oil that, through use or handling, has become unsuitable for its original purpose due to the presence of physical or chemical impurities or loss of original properties. Used oil is a free-flowing liquid at standard temperature and pressure. Used oil shall include, but not be limited to, lubricating oils and greases, engine oils, metal working fluids, emulsive coolants, hydraulic fluids, refrigeration oils, electrical insulating oils, silicon oils and wire drawing oils. Used oil does not include materials derived from crude or synthetic oils that are used as fuels (e.g., gasoline, jet fuel and diesel fuel) or used as cleaning agents or solvents (e.g., mineral spirits), that are subject to the waste characterization requirements under the [Hazardous Waste Determination](#) Section of Rule 5.3 and may be subject to additional parts of these Rules if the materials meet the definition of Hazardous Waste.

Used Oil Aggregation Point means any site or facility that accepts, aggregates, and/or stores used oil collected only from other used oil generation sites owned or operated by the owner or operator of the aggregation point.

Used Oil Burner means an owner or operator of a facility where used oil is burned for the purpose of energy recovery in used oil burning equipment.

Used Oil Burning Equipment means fuel burning equipment, including but not limited to, any space heater, industrial furnace or boiler that is used to burn used oil for the purpose of energy recovery.

Used Oil Collection Centers means any facility or site that accepts/aggregates and stores used oil collected from household used oil generators.

Used Oil Fuel means used oil that meets the specifications contained in Table 2 in Rule 15.3 and is burned for energy recovery.

Used Oil Generator means any person, by site, whose act or process produces used oil that is not a "household used oil" or whose act first causes used oil to become subject to regulation.

Used Oil Marketer means any person who directs a shipment of specification used oil from their facility to a used oil burner or first claims that a shipment of used oil meets Specification Used Oil Requirements set forth in Table 2 of Rule 15.3.

Used Oil Processor or Re-refiner means a facility that conducts processing of used oil as defined in these Rules.

Used Oil Temporary Storage Facility means any transportation related facility including loading docks, parking areas, storage areas and other areas where shipments of used oil are held for more than 24 hours but not longer than 35 days during the normal course of transportation. Temporary storage facilities that store used oil for more than 35 days are subject to the used oil processor/re-refiner requirements of Rule 15.8.

Used Oil Transporter means any person, excluding household used oil generators, who transports used oil, any person who collects used oil from one or more generators and transports the collected oil, and owners and operators of used oil temporary storage facilities.

Vehicle shall mean any car, truck, tractor, or other device used in transportation including any trailer, tank or other type of containment structure permanently or temporarily attached thereto.

Washout shall mean the movement of hazardous waste from the active portion of the facility as a result of flooding.

Waste shall mean solid waste as defined in 40 CFR 261.2.

Waste pile shall mean any non-containerized accumulation of solid, non-flowing hazardous waste that is used for treatment or storage.

Wastewater treatment unit shall mean a device that:

- A. Is part of a wastewater treatment facility has received a permit for wastewater discharge from the local Publicly Owned Treatment Works or the RIDEM and;
- B. Receives and treats or stores an influent wastewater that is a hazardous waste, or that generates and accumulates a wastewater treatment sludge that is a hazardous waste, or treats or stores a wastewater treatment sludge which is a hazardous waste and;

- C. Meets the definition of tank or tank system; and
- D. Is not a wastewater evaporation unit.

Wetlands shall mean marshes, swamps, bogs, ponds, rivers, river and stream flood plains and banks; areas subject to flooding or storm flowage, emergent and submergent plant communities in any body of fresh water including rivers and streams and that area of land within fifty feet (50') of the edge of any bog, marsh, swamp or pond.

40 CFR ... shall mean that section or subsection of the Code of Federal Regulations, Title 40, Protection of Environment, Chapter 1, Environmental Protection Agency as amended by these regulations. All references to Title 40 of the Code of Federal Regulations are 40 CFR as of July 1, 2013 unless otherwise specified.

49 CFR ... shall mean that section or subsection of the Code of Federal Regulations, Title 49, Transportation as amended by these regulations. All references to Title 49 of the Code of Federal Regulations are 49 CFR as of October 1, 2013.

4 VARIANCES

4.1 Applications:

An applicant may apply to the Director for a variance from any of these rules and regulations. The Director then may require the submission of any survey data, drawings, soil borings and tests, calculations, scientific tests, data or other information he deems necessary to evaluate such application.

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4.2 Non-Permit Variances:

The Director may upon application issue a variance under this rule when compliance with these rules and regulations would, in the Director's judgment, and upon presentation by the applicant of adequate proof, cause unreasonable or undue hardship, provided the applicant can also present adequate proof that the issuance of a variance:

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- A. will provide protection of health and the environment equivalent to that provided by these rules,
- B. will not endanger the public health and safety,
- C. will not create a public or private nuisance,
- D. will not significantly interfere with the public use and enjoyment of any recreational resource,
- E. will not cause pollution in any surface body of water or any groundwater, or cause contamination of any drinking water supply or tributary thereto,
- F. will not violate any provisions of any rules or regulations adopted pursuant to Chapter 23-23 (the Rhode Island Clean Air Act) of the General Laws of Rhode Island, as amended,
- G. will not be less stringent than 40 CFR 262.34 (b).

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The issuance or denial of a variance shall be preceded by public notice and opportunity for public comment. In no case shall the duration of any such variance exceed five years. Renewals or extensions may be given only after public notice and opportunity for public comment on each such renewal or extension.

4.3 Permit Variances:

In addition to the requirements of Rule 4.2, the Director or his designee shall hold a public hearing prior to rendering a decision on any application. Prior to the hearing, the Director shall issue public notice on the radio and in a newspaper of general circulation in the area affected and shall notify by certified mail to the last known address: all persons requesting in writing such notification, all property owners within five hundred (500) feet of the perimeter of the site of the applicant's facility, the city or town where the facility is located, and the applicant of the hearing date, time, and place. Such notices shall be made at least sixty (60) days prior to the date of the public hearing. Permit variances shall not be granted for a period to exceed one year.

4.4 Department's Evidence:

The Department through its authorized agents may present evidence to the Director or his designee relative to any application.

4.5 Remonstrant:

Remonstrant's who have been notified, as required by this rule, may present evidence to the Director or his designee relative to any application.

4.6 Decision:

The Director or his designee may grant or deny the variance after hearing provided, however, that such variance may be subject to such terms and conditions as the Director or his designee may deem necessary to protect the public health and safety and the environment.

5 GENERATORS

5.1 Purpose, Scope and Applicability:

These rules shall apply to all [generators](#) of [hazardous waste](#) which are defined in Rule 3 as either a Large Quantity Generator (LQG), Small Quantity Generator (SQG), or Conditionally Exempt Small Quantity Generator (CESQG). Rules 5.1 through 5.12 apply to all generators; ; in addition, Rule 5.13 applies to LQGs; Rule 5.14 applies to SQGs, and Rule 5.15 applies to CESQGs.

A. Additional operations subject to generator rules:

Any generator or person that conducts one or more of the following activities shall comply with the requirements for Large Quantity Generators of hazardous waste contained in this rule:

1. [Hazardous Waste Management Facilities](#) that initiates a shipment of hazardous waste from a treatment, storage, or disposal facility.
2. [Community Collection Centers](#) permitted in accordance with Rule 10.
3. [Household Hazardous Waste Facilities](#) as defined in Rule 3.

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B. Exemptions:

1. These rules do not apply to household hazardous waste generated by non-business activities at single and/or multiple family residences, subject to the household hazardous waste exemption in 40 CFR 261.4(b)(1). However, owners and/or operators of facilities that accept household hazardous waste, other than household hazardous waste pharmaceuticals, shall comply with the requirements for Large Quantity Generators in this Rule and upon receipt the household hazardous waste shall be subject to full regulation as hazardous waste.
2. [Household Hazardous Waste Pharmaceuticals](#) [accepted](#) for destruction [as consumer take-back programs](#), in accordance with the Department of Health and US Drug Enforcement [Administration](#), regulations are not subject to these regulations.
3. These rules do not apply to persons responding to an explosives or munitions emergency in accordance with 40 CFR 264.1(g)(8)(i)(D) or (iv) or 265.1(c)(11)(i)(D) or (iv) and 270.1(c)(3)(i)(D) or (iii).
4. The handling of solvent contaminated wipes, that are cleaned and reused as described in the definition of [hazardous waste](#) in Rule 3.
5. Rhode Island has adopted various other federal exemptions by incorporating 40 CFR part 261 by reference, to the extent set forth in Rule 2.2.C., and also by adopting some of the exemptions set forth in the federal regulations referenced by Rules 7 and 8. Both these other parts of these Rules and the referenced federal regulations need to be consulted to determine the conditions applicable to any particular exemption.

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C. **Federal Exemptions not adopted:** Rhode Island has not adopted some of the federal exemptions, as noted the lists of federal provisions not being adopted in Rule 2.2C, Rule 7 and Rule 8. In particular, Rhode Island has not adopted exemptions from the hazardous waste rules analogous to the following federal exemptions:

1. Definition of Solid Waste Rule (DSW Rule) Exclusions for Hazardous Secondary Materials in 40 CFR 261.2(a)(2)(i), 261.4(a)(23), 261.4(a)(24) and 261.4(a)(25). Materials subject to these federal exclusions are regulated under the otherwise applicable generator requirements in Rhode Island.
2. The scrap metal exclusion of 40 CFR 261.4(a)(13) and the circuit board exclusion of 261.4(a)(14) do not apply to circuit boards that are components of those electronic devices as defined by the term “used electronic device” in Rule 3 or circuit boards that have been removed from any source.
3. CRT exclusions in 40 CFR 261.4(a)(22), 261.39, 261.40, and 261.41. CRTs are regulated as universal wastes in Rhode Island.
4. Manufactured gas plant waste exemption in 40 CFR 261.24(a). Rhode Island exempts only manufactured gas plant remediation waste that is managed under a Department approval issued in accordance with applicable RIDEM Rules and Regulations for the Investigation and Remediation of Hazardous Material Releases, and that is not land disposed.
5. Petroleum Contaminated Media Exemption regarding corrective action under UST, in 40 C.F.R. 261.4(b)(10). Such contaminated media must meet the usual generator and disposal requirements for hazardous wastes in Rhode Island.
6. Disposal of solvent contaminated wipes adopted by USEPA as 40 CFR 261.4(b)(18) in the 2013 Federal Register, Volume 78, Number 147, pages 46448-46485.
7. CESQG exclusion in 40 C.F.R. 261.5. CESQGs are instead regulated in accordance with this Rule 5.
8. Allowance for CESQGs to send hazardous waste to solid waste facilities, in 40 C.F.R. 264.1(g)(1), 265.1(c)(5). This is not allowed in Rhode Island.
9. The farmer exemption for disposal of waste pesticides in 40 CFR 262.70 and 262.10(f). Farmers are regulated under the otherwise applicable generator requirements in Rhode Island.
10. Academic Labs Rule (40 CFR 262 Subpart K). Laboratory wastes are regulated under the otherwise applicable generator requirements in Rhode Island.
11. Ocean Disposal Allowance under MPRSA in 40 C.F.R. 264.1(c), 265.1(c)(1), and 270.60(a). This is not allowed in Rhode Island.
12. Injection Well Allowance under UIC in 40 C.F.R. 264.1(d) and 270.1(c)(1)(i). This is not allowed in Rhode Island except when a permit is issued by the Department for a remediation overseen by the Department.
13. The federal wastewater exemption has been limited by Rhode Island to facilities actually discharging to surface waters or the sewers, as further

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described at 40 CFR 264.1(g)(6) and 270.1(c)(2)(v). Hazardous waste evaporators at generators are not allowed under this exemption but rather must meet the conditions specified in Rule 5.2 D 5.

D. A **generator** of hazardous waste is subject to Rule 17 penalties, for failing to comply with Rule 5 requirements, as well as possible federal penalties.

5.2 Prohibitions:

Generators of hazardous waste are prohibited from conducting the following activities:

- A. Disposing of hazardous waste, shipping hazardous waste to anywhere other than a [Designated Facility](#), or for CESQGs a Community Collection Center permitted by the Department to receive hazardous waste from households or CESQGs only, or for CESQGs shipping architectural paint waste [to](#) a Paint Collection Center allowed to receive architectural paint waste from households or CESQGs only.
- B. ~~Shipping hazardous waste off-site for treatment or disposal or recycling without first completing a manifest approved by EPA as required in Rule 5 unless otherwise authorized in these Regulations.~~
- C. Receiving hazardous waste from off-site without first obtaining a permit, unless the activity is otherwise exempted by these regulations (e.g., for Community Collection Centers or Paint Collection Centers)..
- D. Treating hazardous waste without a permit or license unless the treatment falls into one of the categories below:
 1. is authorized as part of RCRA corrective action as described in Rule 16 (i.e. a written approval for a RAP, CAMU, TU or Staging Pile has been issued by the Department).
 2. is performing treatment in [wastewater treatment units](#)
 3. is performing treatment in elementary neutralization units described in Rule 7(B)(8) and 8.2(A)(6).
 4. is treating the waste in a [totally enclosed treatment unit](#)
 5. is treating the waste in [evaporation units](#), as defined in Rule 3, provided the generator complies with all the following conditions:
 - (a) does not use the unit to dispose of hazardous waste
 - (b) the unit is being used to legitimately treat only wastewater, as defined at 47 Fed. Reg. 4706 (Feb. 2, 1982) (note: Concentrated hazardous wastes are not covered by this exemption.)
 - (c) does not manage waste with the waste codes D001 or D003 in the unit.
 - (d) all hazardous waste and other waste that produces a hazardous waste sludge is managed, before, during and after use of the evaporator unit, as a hazardous waste in accordance with this Rule.
 - (e) incoming quantities of hazardous waste managed in evaporator units is included in the calculation of generator status (i.e. Large Quantity Generator vs. Small Quantity Generator vs. Conditionally Exempt Small Quantity Generator).

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- (f) has received a permit for wastewater discharge or a zero-discharge permit from the local Publicly Owned Treatment Works or the RIDEM.
 - (g) ensures that treatment in the evaporation unit shall result in the concentration of hazardous waste constituents for proper recycling or disposal, and not allow evaporation of the hazardous waste constituents into the air. Air emissions of hazardous constituents shall be controlled through compliance with all applicable air emission control requirements of the of the federal Clean Air Act and the Department's [Air Pollution Control Regulations](#). This shall include completion of a RIDEM Office of Air Resources Evaporator Information Form before commencing operation of the unit. Each operator of an evaporator unit shall develop a written plan and keep it on site and available for inspection during operation of the evaporator and for three years thereafter, documenting such compliance and showing (based on testing or knowledge of the waste) that the unit is being used to legitimately concentrate wastes and is not resulting in the evaporation of hazardous waste constituents into the air. Operators of evaporator units who are large quantity generators must also comply with the air emission control requirements in 40 CFR part 265, subparts AA, BB and CC as applicable. These regulations are hereby adopted by reference and made applicable to evaporator units at large quantity generators in Rhode Island. For all other entities in Rhode Island, these regulations are not being adopted by reference by the State, but rather will continue to be administered by the U.S. EPA.
 - (h) ensures operation and placement of the unit does not:
 - (i) Result in the generation of extreme heat or pressure, fire or explosion, or
 - (ii) violent reaction;
 - (iii) Produce uncontrolled toxic mists, fumes, or gases in sufficient quantities
 - (iv) threaten human health;
 - (v) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosion; or Damage the structural integrity of the unit, or cause the unit or any of its ancillary equipment to rupture, leak, abnormally corrode, or otherwise fail before the end of its intended life.
6. is treating the waste in tanks or containers under the following conditions:
- (a) The generator provides written notification to the Department that includes:
 - (i) The facility name, EPA identification number, generator status, mailing address, street address, telephone number, and contact person

- (ii) A detailed description of the treatment process(es) to be used including process design drawings, plans or process flow diagrams;
 - (iii) An estimate of the frequency that treatment will occur;
 - (iv) The type(s) and estimated quantity of hazardous waste to be treated including a detailed description of the process(es) generating the waste; and
 - (v) A detailed description of how all treatment products and by-products will be managed following treatment.
- (b) A revised written notification is provided to the Department if the information required above if this section changes significantly.
 - (c) The treatment occurs in containers and tanks that comply with the requirements of Rule 5.13, 5.14 and 5.15 as appropriate.
 - (d) The treatment does not violate the applicable requirements of subparts AA, BB, and CC of 40 CFR part 265 (as administered by EPA).
 - (e) The hazardous waste being treated is generated and treated on-site.
 - (f) During treatment and during any storage prior to treatment, hazardous waste is:
 - (i) Counted for the purpose of determining generator status under Section 5.6; and
 - (ii) Managed in accordance with the applicable requirements of this rule (Rule 5).
 - (g) The generator determines if treatment by-products are hazardous waste in accordance with Rule 5.3.
 - (h) The generator maintains records for three years documenting:
 - (i) The type(s) and quantity of waste treated;
 - (ii) The method(s) of treatment used; and
 - (iii) The date(s) that treatment occurred.
 - (i) All hazardous waste generated from the treatment is managed in accordance with the applicable standards of this rule (Rule 5).
 - (j) If a generator is managing and treating waste or contaminated soil in tanks or containers to meet Land Disposal Restriction treatment standards found at 40 CFR 268.40, the generator develops and follows a written waste analysis plan in accordance with the requirements of 40 CFR § 268.7(a)(5) (as administered by EPA).
 - (k) The generator does not treat hazardous waste using thermal treatment processes.
 - (l) The generator does not treat, break or shred mercury-containing wastes or devices (e.g., fluorescent lamps, thermostats).
 - (m) The generator does engage in breaking or shredding of CRT's as prohibited by Section 13.5G.
 - (n) The generator does not engage in shredding of circuit boards except under the conditions of Rule 11.

- (o) Treatment does not result in any adverse impact to human health or the environment.

Note: The Department reserves the right, upon receiving written notification of treatment by a generator, to require that treatment-specific requirements be met.

- 7. The Director has issued a temporary emergency permit in accordance with Rule 7B to a non-permitted facility to allow the treatment, storage or disposal of hazardous waste subject to the requirements of 40 CFR 270.61.

5.3 Hazardous Waste Determination:

Any person who generates a solid waste shall determine if the waste is a hazardous waste using the following method. The Generator shall first determine if the waste meets definition of a hazardous waste in Rule 3. In accordance with the requirements of 40 CFR 261.4, as modified in Rule 2.2(C), the Generator may then determine if the waste meets any of the exemptions or exclusions contained in that section. If the waste does not meet any of the federal definitions of hazardous waste, the generator shall then determine if any of the Rhode Island hazardous waste types apply, as defined by Rule 3 of these regulations. Analytical testing may be employed by the generator to determine if a solid waste is hazardous waste and shall be determined by an approved method as set forth in 40 CFR 261 Subpart C. Equivalent testing methods per 40 CFR 260.21 are not allowed. Generators may also determine the regulatory status of the waste through product knowledge by demonstrating in writing clear and convincing scientific evidence of the characteristics of the waste and the process(es) that generated the waste. Regardless of any advisory opinions or statements from any laboratory or government agency, it remains the generator's responsibility to properly characterize his/her wastes. If the waste is determined to be hazardous, the generator must refer to 40 CFR Parts 261, 264 – 266, and 273 as incorporated by reference at 2.2B, C, E, F, G and I and 40 CFR Part 268 (as administered by the EPA) for possible exclusions or restrictions pertaining to the management of the specific waste.

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5.4 Generator Notification and Identification:

All Generators, including CESQG's shall notify the Department of their hazardous waste activity by applying for and obtaining an EPA Identification Number from the Department for his/her site using the Notification Form provided by the Department. However, CESQG's do not need to obtain and EPA Identification number in order to drop of paint at either a Community Collection Center or a Paint Collection Center.

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These generators shall not store or offer hazardous waste for shipment without first obtaining an EPA Identification Number and shall notify the Department in the event of a change of his/her status (LQG, SQG, CESQG, Non-generator) and/or a change in the nature of the hazardous waste generation activity. Only one EPA Identification Number will be issued for an individual generation site and the generator shall use the assigned EPA Identification Number exclusively for shipments of hazardous waste

from the site. At the discretion of the Department, either a permanent or temporary EPA Identification Number will be issued to the generator. Temporary EPA Identification Numbers issued by the DEM shall be valid for a period of time not to exceed ninety (90) days from the date of issuance.

5.5 Hazardous Waste Generation Fee:

- A. Each generator of hazardous waste shall pay a Hazardous Waste Generation Fee of 2.3 cents per pound or 19 cents per gallon of waste generated. This fee shall apply to all hazardous wastes that are generated in Rhode Island. The fee does not apply to waste treated onsite as allowed in Rule 5.2D. The fee shall be collected by the hazardous waste transporter and in turn shall be paid to the Department as specified in [Rule 6.17](#) (Hazardous Waste Generation Fee).
- B. Non-hazardous Waste and waste bearing Rhode Island Fee Exemption Waste Codes (R011-R016) as defined in Rule 3 are exempted from the fee.

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5.6 Generator Quantity Determination:

- A. When making the quantity determinations used in the LQG, SQG, and CESQG definitions in Rule 3, the generator must include all hazardous waste that it generates, except hazardous waste that:
 - 1. Is exempt from regulation under 40 CFR 261.4(c) through (f), 261.6(a)(3), 261.7(a)(1), or 261.8 as modified and incorporated by reference in Rule 2.2.C; or
 - 2. Is managed immediately upon generation only in on-site elementary neutralization units or [wastewater treatment units](#) or in a [totally enclosed treatment unit](#) as defined in Rule 3; or
 - 3. Is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under 40 CFR 261.6(c)(2); or
 - 4. Is used oil managed under the requirements of Rule 15; or
 - 5. Is spent lead-acid batteries managed under the requirements of 40 CFR part 266, subpart G; or
 - 6. Is universal waste managed under Rule 13.
- B. In determining the quantity of hazardous waste generated, a generator need not include:
 - 1. Hazardous waste when it is removed from on-site storage provided that it has been counted when placed into storage; or
 - 2. Hazardous waste produced by on-site treatment (including reclamation) of his hazardous waste, so long as the hazardous waste that is treated was counted once; or
 - 3. Spent materials that are generated, reclaimed, and subsequently re-used on-site, so long as such spent materials have been counted once.
- C. If at any time, or in any given month, the quantity or nature of waste generated [or stored](#) causes the generator status of an SQG or CESQG to change (to either LQG or SQG) the generator shall manage the waste as prescribed in the appropriate section (5.13 or 5.14) of these rules. This new standard of management shall

include the more stringent provisions and time frames for the increased quantity of waste. The generator shall also notify the Department as required by Rule 5.4.

- D. If any generator mixes a solid waste with a hazardous waste that exceeds a quantity exclusion level of this section, the mixture is subject to full regulation.

5.7 Authorized Manifest Signers List:

Generators shall submit to the Department a list of the names and signatures of all agents authorized to sign the Uniform Hazardous Waste Manifests on behalf of the company prior to shipping hazardous waste off-site. Generators shall amend the list as necessary in the event of a reduction or gain in personnel and shall submit the amended form to the Department within thirty (30) days of the modification.

5.8 Record Keeping:

- A. Generators shall maintain the following records on-site for a period of at least three years. The retention times for all records are automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Director:
1. A copy of each hazardous waste manifest prepared by the generator for off-site shipment of waste and a copy of the same manifest signed by the designated facility. Records shall be maintained for a period of three years from the date the waste was accepted by the transporter.
 2. Biennial Reports completed by the generator if required for a period of three years from the date the report was due.
 3. All analytical test results conducted by the generator for waste analyses or waste determinations and all other documentation used by the generator to perform a waste determination for at least three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal.
 4. Hazardous waste management training records on former employees shall be kept for at least three years from the date the employee last worked at the facility.
 5. Inspection logs of hazardous waste container storage areas or tanks holding hazardous waste.
 6. Documentation verifying that tanks holding hazardous waste were emptied every ninety (90) days or in a timely manner as required by the regulations.
 7. Notification of intent to export for a period of at least three years from the date the hazardous waste was accepted by the initial transporter.
 8. EPA Acknowledgement of Consent to export for a period of at least three years from the date the hazardous waste was accepted by the initial transporter.
 9. Confirmation of exported hazardous waste delivery from the consignee for at least three years from the date the hazardous waste was accepted by the initial transporter.
 10. Annual export report for a period of at least three years from the due date of the report.

11. A copy of each certificate of recovery sent by the recovery facility to the exporter for at least three (3) years from the date that the recovery facility completed processing the waste shipment.
12. Exception reports required by [Rule 5.13 \(LQG\)](#), [5.13 \(SQG\)](#) or [5.15 \(CESQG\)](#) for non-exported hazardous waste and exported hazardous waste for at least three years from the date the report was filed.
13. Copies of any variances, determinations or permits granted by RIDEM or the U.S.E.P.A.
14. [Community Collection Centers](#) and [Paint Collection Centers](#) shall also maintain documentation from persons dropping of hazardous waste that do not meet the definition of Household Hazardous Waste Generators.
15. Generators that accumulate in tanks and containers are required to keep records as required by Rules 5.13 B and C (LQG), 5.14 B and C (SQG) and 5.15 B (CESQG) as applicable.
16. [Generators treating waste in tanks and containers must document: the type\(s\) and quantity of waste treated; the method\(s\) of treatment used; and the date\(s\) that treatment occurred.](#)
17. [Each operator of an evaporator unit shall develop a written plan and keep it on site and available for inspection during operation of the evaporator and for three years thereafter.](#)

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B. Hazardous waste management training records on current personnel shall be kept until closure of the facility.

5.9 **Satellite Waste Accumulation:**

Generators may store up to 55 gallons of hazardous waste, or one quart of acutely hazardous waste listed in 40 CFR 261.33(e) or 40 CFR 261.30 (d), in containers (satellite accumulation container) at or near any point of generation where the wastes initially accumulate, ~~that~~ is under the control of the operator of the process generating the wastes. ~~The generator may store these wastes~~ without a storage permit or interim status and without complying with the storage and accumulation requirements of Rule [5.10 and](#) 5.13 through 5.15 provided that the generator:

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- A. Labels each satellite accumulation container with the following information:
 1. The words "Hazardous Waste"
 2. The chemical or common name of the waste.
 3. The date the excess amount of hazardous waste began accumulating per [Rule 5.9\(G\)](#).
- B. Immediately transfers all hazardous wastes from a satellite accumulation container that is in poor condition and is leaking or may leak waste to another satellite accumulation container or a storage container that is in good condition.
- C. Stores the hazardous waste in a satellite accumulation container that is made of or lined with materials that will not react with, and are otherwise compatible with, the

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hazardous waste to be accumulated, so that the ability of the satellite accumulation container to contain the waste is not impaired.

- D. Keeps the satellite accumulation container holding hazardous waste closed except when actively adding or removing waste.
- E. Handles, manages and maintains the satellite accumulation container in a manner that prevents damage to the container that could result in a spill or release of hazardous waste.
- F. Within three days of accumulating hazardous waste in excess of the amounts listed in this rule, complies with the applicable requirements for storage and labeling of hazardous waste in containers as required by Rule 5.13 through 5.15. During the three day period the generator shall comply with requirements A through E above and mark the container holding the excess hazardous waste with the date upon which the excess amount first began accumulating waste.

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G. Does not store PCB wastes in satellite accumulation containers.

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5.10 Aisle Space:

Adequate aisle space shall be maintained of no less than three feet between rows of containers in all areas of the facility where hazardous waste is stored to allow for access to containers and tanks holding hazardous waste by emergency personnel, fire protection equipment, spill control equipment, decontamination equipment and for inspection to ensure the tanks and containers are in good condition.

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5.11 Inspections; Right of Entry:

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Pursuant to Title 23, Chapter 19.1, Section 12, "Inspections; Right of Entry", of the General Laws of Rhode Island, (2001 Reenactment), as amended, the Director may:

- A. enter any hazardous waste management facility, or any place the Director has reason to believe hazardous wastes are generated, stored, treated, or disposed of;
- B. inspect vehicles that the Director has reasonable grounds to believe are being used for the transportation of hazardous wastes;
- C. inspect and obtain samples of any waste or other substances, labels, containers of waste or other substance, or samples from any vehicle in which hazardous wastes are transported or in which the Director has reason to believe hazardous wastes are transported;
- D. inspect and copy records, reports, information, or test results kept or maintained by a generator or at a hazardous waste management facility.

5.12 Pre-Transport Requirements:

Before transporting hazardous waste off-site or offering hazardous waste for transportation off-site, generators shall:

- A. Package, label and mark each storage unit for offsite shipment in compliance with U.S.D.O.T. requirements under 49 CFR parts 172, 173, 178 and 179. Place a

hazardous waste label on each container which includes the following information:

1. The words “Hazardous Waste – Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency”.
2. Generator’s name, address, city, state, zip code and telephone number
3. Generator’s EPA identification number
4. Proper D.O.T Shipping Name
5. Hazardous Properties/Description
6. EPA waste codes
7. State waste code (if applicable)
8. Manifest document number

B. Placard or offer the initial transporter appropriate placards according to U.S.D.O.T.’s hazardous materials regulations at 49 CFR part 172, Subpart F.

5.13 Large Quantity Generators (LQGs)- Waste Management Requirements:

The following requirements apply to Large Quantity Generators as defined in Rule 3.

A. Hazardous Waste Storage:

Except for F006 waste per requirements below, A LQG may store hazardous waste on-site for a period not to exceed ninety (90) days, without first obtaining a storage permit as required by Hazardous Waste Rule 7, provided that he/she manages the hazardous waste in accordance with the provisions of these Rules and Regulations. An LQG who stores hazardous waste (except for F006 waste) for more than 90 days is an operator of a storage facility and is subject to the Rule 8 operational requirements for treatment, storage, and disposal facilities requirements, 40 CFR 264, and the permit requirements of Rule 7.

Wastewater treatment sludges from electroplating operations that meet the listing description for the RCRA hazardous waste code F006, may be accumulated on-site for more than 90 days, but not more than 180 days without a permit or without having interim status provided that:

1. The generator has implemented pollution prevention practices that reduce the amount of any hazardous substances, pollutants or contaminants entering the F006 waste or otherwise released to the environment prior to its recycling;
2. The F006 waste is legitimately recycled through metals recovery (i.e., on-site or off-site recovery of distinct metal component(s) from the electroplating sludge, as separate end product(s));

3. No more than 20,000 kilograms (44,000 pounds) of F006 waste is accumulated on-site at any one time and
4. The F006 waste is managed in accordance with the following:
 - (a) The F006 waste is placed:
 - (i) In containers that comply with Rule 5.13(B) below and the generator complies with the applicable requirements of subparts AA, BB, and CC of 40 CFR part 265 (as administered by EPA); and/or
 - (ii) In tanks that comply with Rule 5.13(C) and the generator complies with the applicable requirements of subparts AA, BB, and CC of 40 CFR part 265 (as administered by EPA);, except for C(8)(h) (closure and post closure) and 265.200 (waste analysis and trial tests) and/or
 - (iii) In containment buildings and the generator complies with Rule 5.13(D), and has placed its professional engineer certification that the building complies with the design standards specified in 40 CFR 265.1101 in the facility's operating record prior to operation of the unit. The owner or operator shall maintain the following records at the facility:
 - A written description of procedures to ensure that the F006 waste remains in the unit for no more than 180 days, a written description of the waste generation and management practices for the facility showing that they are consistent with the 180-day limit, and documentation that the generator is complying with the procedures; or
 - Documentation that the unit is emptied at least once every 180 days. In addition, such a generator is exempt from all the requirements in subparts G and H of 40 CFR part 265, except for §§ 265.111 and 265.114.
 - (b) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;
 - (c) While being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste" and complies with labeling requirements (Section F); and
 - (d) The generator complies with the requirements for owners or operators in Rules 5.13(H) (Spill Prevention) and (J) (Hazardous Waste Contingency Plan).

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B. Hazardous Waste Accumulation in Containers:

Hazardous waste may be stored in containers provided that the LQG:

1. Marks the side of all containers holding hazardous waste with the date upon which the waste first began to accumulate (accumulation start date).

2. Keeps all containers holding hazardous waste closed except when it is necessary to add or remove waste.
3. Opens, handles and stores containers holding hazardous waste in a manner that does not, or is not likely to, cause a spill or release of hazardous waste.
4. Immediately transfers hazardous waste from any and all containers that are not in good condition as a result of physical or chemical forces that have reduced the containers structural integrity, or if they begin to leak, to a container(s) that is in good condition and compatible with the hazardous waste being transferred.
5. Stores all containers holding ignitable or reactive hazardous waste in an area that is at least fifty (50) feet from any property boundary lines.
6. Uses containers constructed of, or lined with, a material that is chemically compatible with the hazardous waste placed into the containers, so that the ability of the container to hold the waste is not impaired.
7. Does not place incompatible wastes in the same container unless the mixing is accomplished so that it does not generate extreme heat or pressure, does not initiate a fire, explosion or violent reaction and does not produce uncontrolled toxic mists, fumes, dust or gases, and does not damage the structural integrity of the container and does not threaten human health or the environment through like means.
8. Conducts inspections on a weekly basis of all containers holding hazardous waste for signs of deterioration and/or corrosion of the containers and for any signs of leaks or releases of hazardous waste. The inspection shall also include a visual examination of all containment systems and devices to ensure that they are free of any cracks, gaps or other imperfections. Generators shall maintain a written record documenting the date and time of each inspection, the person that conducted the inspection and whether any release was identified, container was replaced or repair needed to containment conditions, and the result of each inspection for a period of at least three (3) years.
9. Stores hazardous wastes that when mixed would result in an unintended reaction or are otherwise not compatible in separate containers designed to contain the subject hazardous wastes. Containers holding hazardous wastes shall be stored in separate locations from incompatible wastes or materials present on-site and isolated by a physical barrier (e.g., a dike, berm, or wall) constructed of or lined with a material that is resistant to the hazardous waste stored in the area.
10. Does not place hazardous waste in an unwashed container that previously held an incompatible waste or material, unless the conditions listed above are satisfied.
11. Stores containers holding liquid hazardous waste in an area that has a containment system, or otherwise provide a containment device, that has a capacity of no less than 10% of the total volume of all of the containers in storage or the volume of the largest container, whichever is greater. The containment system or device shall be impervious and compatible with the

type of waste held in the containers. The generator shall maintain the containment system or device to ensure that it is free of cracks, gaps or other imperfections that would prevent the system from fully containing any and all spilled or released waste.

12. Manage all containers holding hazardous waste in accordance with the applicable requirements of 40 CFR 265 Subparts AA, BB and CC (as administered by EPA).

C. Accumulation in Tanks:

Large Quantity Generators that store hazardous waste in tanks shall comply with all of the requirements listed below and with the applicable requirements of 40 CFR 265 Subparts AA, BB and CC as administered by EPA. All generators storing hazardous waste in underground storage tanks shall also comply with the Rhode Island *Rules and Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials*. Large Quantity Generators storing hazardous waste in tanks shall comply with the following:

1. **Tank Certification.**

- a. **Existing Tanks** storing hazardous waste shall have secondary containment that meets the requirements of Section 5.13(C)(5) of this rule [secondary containment]. Existing tanks storing non-hazardous waste only that is subsequently re-designated as hazardous waste storage tank, shall have a registered professional engineer conduct an evaluation of the tank system detailed in Section 5.13(C)(1)(c) below and certify, in accordance with 40 CFR 270.11(d), the structural integrity of the system. The evaluation shall be provided within 12 months of the waste's re-designation date and secondary containment shall be provided within two years of the waste's re-designation date.

- b. **New Tanks** shall be provided with secondary containment (prior to storing hazardous waste) that meets the requirements of Section 5.13(C)(5) of this Rule and have a registered professional engineer conduct an evaluation of the tank system detailed in Section 5.13(C)(1)(c) below, and certify, in accordance with 40 CFR 270.11(d), the structural integrity of the system described.

- c. **Tank System Evaluation**

- (i) **Existing Tanks:**

If required, per Section 5.13(C)(1)(a) of this Rule, generators shall have the system evaluated by a registered professional engineer. The engineer shall determine if the tank system has adequate structural integrity (and compatibility with the waste(s) to be stored) to retain the designed volume of waste without causing a rupture, failure or release. In addition, the evaluation shall include a review of the following:

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- (a) Characteristics of the hazardous waste to be stored or that has been stored in the tank and the compatibility of the tank system with said waste.
- (b) The age of the tank or date of installation, if known; otherwise an estimate of the tank age.
- (c) Existing corrosion protection measures and the exterior of the tank system shall be inspected looking for any signs or indications of damage, including but not limited to, weld breaks, punctures, scrapes of protective coatings, cracks, pitting, or any other signs of corrosion or deterioration.
- (d) Tank systems shall be tested to ensure that they are not leaking, or will not leak, by either having a qualified professional engineer enter the tank system and conduct an interior inspection, or if the tank is non-enterable by conducting a precision leak test on the tank system.
- (e) The evaluation (and the annual tank system testing, if required) shall be documented in writing and the written report shall be maintained on-site by the generator and shall be made available to Department personnel upon request.

(ii) New Tanks:

Prior to placing hazardous waste into a new tank system, generators shall have the system evaluated by a registered professional engineer. The engineer shall determine if the tank system has adequate structural integrity (and compatibility with the waste(s) to be stored) to retain the designed volume of waste without causing a rupture, failure or release. In addition, the evaluation shall include a review of the following:

- (a) Design standards for new tank systems used to construct the tank system and the manufacturer's specifications.
- (b) Characteristics of the hazardous waste to be stored or that has been stored in the tank and the compatibility of the tank system with said waste.
- (c) The owner or operator of a new tank system must ensure that proper handling procedures are adhered to in order to prevent damage to the system during installation. Prior to covering, enclosing, or placing a new tank system or component in use, an independent, qualified installation inspector or a qualified Professional Engineer, either of whom is trained and experienced in the proper installation of tank systems, must inspect the system or component for the presence of any of the following items:
 - Weld breaks;
 - Punctures;
 - Scrapes of protective coatings;

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- Cracks;
- Corrosion;
- Other structural damage or inadequate construction or installation.

All discrepancies must be remedied before the tank system is covered, enclosed, or placed in use.

(d) For any tank system or components in which the external shell of a metal tank or any external metal component of the tank system is or will be in contact with soil or water, the following corrosion assessment details are required:

- For new tank systems or components in which the external shell of a metal tank or any external metal component of the tank system is or will be in contact with the soil or with water, a determination by a corrosion expert of :

◇ Factors affecting the potential for corrosion, including but not limited to: soil moisture content, soil pH, soil sulfides level, soil resistivity, structure to soil potential, Influence of nearby underground metal structures (e.g., piping), stray electric current and Existing corrosion-protection measures (e.g., coating, cathodic protection), and

◇ The type and degree of external corrosion protection that are needed to ensure the integrity of the tank system during the use of the tank system or component, consisting of one or more of the following:

- Corrosion-resistant materials of construction such as special alloys or fiberglass-reinforced plastic;
- Corrosion-resistant coating (such as epoxy or fiberglass) with cathodic protection (e.g., impressed current or sacrificial anodes); and
- Electrical isolation devices such as insulating joints and flanges.

NOTE: The practices described in the National Association of Corrosion Engineers (NACE) standard, "Recommended Practice (RP-02-85)—Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and the American Petroleum Institute (API) Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," may be used, where applicable, as guidelines in providing corrosion protection for tank systems.

(e) The owner or operator must provide the type and degree of corrosion protection necessary, based on the information provided above to ensure the integrity of the tank system during

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use of the tank system. The installation of a corrosion protection system that is field fabricated must be supervised by an independent corrosion expert to ensure proper installation.

(f) Tank systems shall be tested to ensure that they are not leaking, or will not leak, by either having a qualified professional engineer enter the tank system and conduct an interior inspection, or if the tank is non-enterable by conducting a precision leak test on the tank system.

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(g) For any underground tank system components that are likely to be affected by vehicular traffic, a determination of design or operational measures to protect the tank system from damage and design considerations shall ensure that:

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- Tank foundations will maintain the load of a full tank;
- Tank systems will be anchored to prevent flotation or dislodgement where the tank system is placed in a saturated zone, or is located within a seismic fault zone;
- Tank systems will withstand the effects of frost heave and
- Ancillary equipment shall be supported and protected against physical damage and excessive stress due to settlement, vibration, expansion, or contraction.

(h) The evaluation (and the annual tank system testing, if required) shall be documented in writing and the written report shall be maintained on-site by the generator and shall be made available to Department personnel upon request.

(i) All new tanks and ancillary equipment must be tested for tightness prior to being covered, enclosed or placed in use. If a tank system is found not to be tight, all repairs necessary to remedy the leak(s) in the system must be performed prior to the tank system being covered, enclosed, or placed in use.

(j) Ancillary equipment must be supported and protected against physical damage and excessive stress due to settlement, vibration, expansion or contraction.

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NOTE: The piping system installation procedures described in American Petroleum Institute (API) Publication I615 (November 1979), "Installation of Underground Petroleum Storage Systems," or ANSI Standard B31.3, "Petroleum Refinery System," may be used, where applicable, as guidelines for proper installation of piping systems.

2. **Existing tank systems** that are leaking or are deemed unfit for use are subject to Section 5.13C(8)(g) of this Rule. All new tanks systems that have leaks shall be repaired to remedy the leaks prior to covering, enclosing or placing the tank systems into service. Also, any signs of damage to new tank systems must be remedied prior to covering, enclosing or placing them into service as required by Section 5.13(C)(1)(i) above.

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3. **New Tank System Installation Tasks.**

- (a) New tanks systems or components and piping that are placed underground and backfilled, shall use a backfill material that is a non-corrosive, porous, homogeneous substance. The backfill shall be placed completely around the tank and compacted to ensure full and uniform support for the tank and piping.
- (b) The type and degree of corrosion protection provided shall be based on the corrosion assessment details of 40 CFR 265.192(a)(3). Installation of the field fabricated corrosion protection system shall be supervised by an independent corrosion expert.

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4. **New Tank System Documentation.**

Written statements required to be stored on-site include the Section 5.13(C)(1)(b) certification statement and statements by persons required to certify the design of the tank system and who supervise the installation of the tank system, attesting that the tank system was properly designed and installed and that any tank system repairs, if needed, per Section 5.13(C)(2) of this Rule, were performed.

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5. **Secondary containment for tank systems.** Large Quantity Generators shall design and install secondary containment systems in such a manner as to prevent a spill or release of hazardous waste from the system into the environment or into the facility. The containment shall be capable of collecting and containing one hundred percent (100%) of the volume of the design capacity of the largest tank and shall be designed or capable of being operated to drain and remove accumulated waste within 24 hours or as allowed by the Department, based on environmental safety factors. The secondary containment system shall also be (or satisfy the following):

- (a) Constructed of or lined with materials that are compatible with the hazardous waste stored in the tank system so that the hazardous waste would not be capable of physically or chemically damaging or compromising the integrity of the containment system. The containment system shall be constructed of materials of sufficient thickness and strength to withstand the pressure generated by holding the designed volume of the hazardous waste.
- (b) Built on a foundation or floor that is free of cracks or gaps, is sealed or coated with a liquid tight compound (epoxy or resin) and capable of withstanding movement caused by settling, uplifting or compression of the underlying soils.
- (c) Provided with a leak detection system that is capable of detecting, within 24 hours (unless the generator can demonstrate that the condition or current technologies will not allow detection within 24 hours), any release of hazardous waste or accumulation of other liquid from the secondary containment. This leak detection system

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shall be tested by the generator on an annual basis to ensure that it remains in an operational state.

- (d) Aboveground tanks that are located outdoors shall have a secondary containment system that is designed or operated to drain off and remove accumulated precipitation to prevent it from reducing the storage capacity of the containment system. The design capacity of the containment system shall be an amount greater than or equal to one hundred percent (100%) of the volume of the aboveground tank system and a volume equivalent to the amount of precipitation generated by a 25-year, 24 hour storm. Prior to releasing or discharging any accumulated precipitation the generator shall visually inspect the accumulated liquid and storage tanks looking for signs of a release of hazardous waste. In the event that visual evidence of a release is observed the generator shall collect a sample of the accumulated liquid and have it analyzed to determine if it meets the definition of hazardous waste. Generators shall manage the accumulated precipitation in accordance with all applicable Federal, State and local regulations pertaining to the discharge of stormwater.

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- (e) The containment system shall meet all of the standards listed above and consist of one of the following designs unless prior approval is obtained from the Director for the use of an alternate system;

(i) External liner system. An external liner system shall be designed to completely surround the tank and to cover the entire surrounding ground surface that is likely to come into contact with the waste if a spill or release occurs and be free of cracks and gaps.

(ii) Vault systems must be:

- Designed or operated to contain 100 percent of the capacity of the largest tank within its boundary;
- Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event;
- Constructed with chemical-resistant water stops in place at all joints (if any);
- Provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;
- Provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated;

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◊ Meets the definition of ignitable waste under § 261.21 of this chapter, or

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◇ Meets the definition of reactive waste under § 261.23 of this chapter and may form an ignitable or explosive vapor; and

◇ Provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.

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(iii) Double walled systems shall be comprised of an inner tank inside an outer shell constructed of, or lined with, a corrosion resistant material that is compatible with the waste. The system shall also have a built-in continuous leak detection system (such as an interstitial monitor) capable of detecting a release within twenty four (24) hours, unless the generator can demonstrate that site conditions or current technologies will not allow for detection within that time period.

(f) Ancillary equipment shall be provided with full secondary containment (e.g., trench, jacketing, double-walled piping) that meets the secondary containment requirements in Section 5.13(C)(5) above except for:

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(i) Aboveground piping (exclusive of flanges, joints, valves, and connections) that are visually inspected for leaks on a daily basis;

(ii) Welded flanges, welded joints, and welded connections that are visually inspected for leaks on a daily basis;

(iii) Sealless or magnetic coupling pumps and sealless valves, that are visually inspected for leaks on a daily basis; and

(iv) Pressurized aboveground piping systems with automatic shut-off devices (e.g., excess flow check valves, flow metering shutdown devices, loss of pressure actuated shut-off devices) that are visually inspected for leaks on a daily basis..

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6. **Daily inspection.** Generators shall inspect tank systems holding hazardous waste once each operating day and shall maintain a written record of each inspection. The inspection shall include at least the following:
- a. Overfill/spill control equipment (e.g., waste feed cutoff systems, bypass systems and drainage systems) to ensure they are in working order.
 - b. Visual inspection of the aboveground sections of a tank for signs of corrosion or release of waste.
 - c. The construction materials and area immediately surrounding the tank system, including the secondary containment system, looking for signs of corrosion and for signs of a release of hazardous waste.
 - d. Data gathered from any and all monitoring and leak detection equipment that is part of the tank system to ensure that it is operating properly.

- e. Ancillary equipment, as described in [Section 5.13\(C\)\(5\)\(f\)\(i-iv\)](#), [above](#) that is not provided with secondary containment.
- f. If cathodic protection systems are present, [the owner or operator must inspect them, according to, at a minimum, the following schedule to ensure that they are functioning properly:](#)
 - i. [The proper operation of the cathodic protection system must be confirmed within six months after initial installation, and annually thereafter; and](#)
 - ii. [All sources of impressed current must be inspected and/or tested, as appropriate, at least bimonthly \(i.e., every other month\).](#)

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[NOTE: The practices described in the National Association of Corrosion Engineers \(NACE\) standard, "Recommended Practice \(RP-02-85\)—Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and the American Petroleum Institute \(API\) Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," may be used, where applicable, as guidelines in maintaining and inspecting cathodic protection systems.](#)

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- 7. [Generators that store hazardous waste in tanks shall comply with the following requirements:](#)

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- a. **Waste Accumulation:** Hazardous Waste shall be stored in tanks for a period of time not to exceed ninety (90) days from the date the waste was first placed into the tank.
- b. **Accumulation Start Date:** Generators shall either mark the side of a tank holding hazardous waste with the date the waste first began to accumulate, or maintain a written log that records the date that hazardous waste was first placed into or removed from the tank.
- c. **Construction:** Hazardous waste shall be placed into a tank system that is constructed of, or lined with, material that is compatible with the hazardous waste.
- d. **Spill Prevention:** Appropriate controls and procedures shall be used to prevent spills and overflows from the tank system or secondary containment device. These shall include at least the following:
 - i. Spill prevention controls (e.g., check valves).
 - ii. Overfill controls (e.g., level sensing alarms, high level alarms, automatic waste feed cutoff systems, or by-pass to standby tank).
 - iii. Maintenance of sufficient freeboard (at least 2 feet) in uncovered tanks to prevent overtopping by wind or wave action or by precipitation.
- e. **Inappropriate Wastes and Incompatible Wastes:** Hazardous wastes or treatment reagents shall not be placed in a tank system if

Deleted: The written log shall be posted on the tank or within ten (10) feet of the tank.

they could cause the tank, its auxiliary equipment, or the secondary containment system to rupture, lead, corrode, or otherwise fail. Incompatible hazardous wastes, or incompatible wastes and materials shall not be placed into the same tank system if the wastes have the potential to cause the tank to leak or otherwise damage the tank system and unless the generator complies with 40 CFR 265.17(b) requirements. Hazardous waste shall not be placed in an unwashed tank which previously held an incompatible waste or material, unless 40 CFR 265.17(b) is complied with.

f. **Ignitable or Reactive Wastes:**

i. Ignitable or reactive wastes shall not be placed into a tank system unless the generator complies with the requirements in 40 CFR 265.17(b) and:

- (1) Treats, renders or mixes the hazardous waste so that the waste is no longer ignitable or reactive; or
- (2) The waste is stored or handled in such a way that it is protected from any material or conditions that may cause the waste to ignite or react; or
- (3) The tank system is used solely for emergency storage.

ii. Generators storing ignitable or reactive wastes in tanks shall also locate the tanks on the site away from the public ways or property boundaries in compliance with the buffer zone requirements in Tables 2-1 – 2-6 of the National Fire Protection Association’s “Flammable and Combustible Liquids Code” (1977 or 1981).

g. **Tank Failure or Leaking Tank:** A tank system that fails or leaks waste shall immediately be removed from service. Additionally the generator shall meet the following requirements:

- i. Immediately stop the flow of waste to the tank system or to the secondary containment, inspect the tank system to determine the source of the release, and complete repairs, as required by 40 CFR 265.196(e), before allowing further use. Major repairs require PE certification of tank re-usability, per 40 CFR 265.196(f), and such certification shall be placed in the operating record and be maintained there until facility closure.
- ii. Remove all waste from the tank system within 24 hours of the discovery of the release and manage said waste in accordance with these regulations.
- iii. If waste was released to the secondary containment system, the generator shall remove all accumulated hazardous waste

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from the secondary containment device within 24 hours and manage said waste in accordance with these regulations.

- iv. Comply with the all requirements relating to release reporting and mitigation from tanks, a required by 40 CFR 265.196(d).
- v. Prevent further migration of any leaks or spills to soils or surface water, if applicable, and remove and properly dispose of any visible contamination of soil or surface water, if applicable.

h. Closure and Post-Closure Care Actions: At closure of a tank system, LQGs must remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated soils, and structures and equipment contaminated with waste, and manage them as hazardous waste (if they meet the definition of such in Rule 3). If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required, then the owner or operator must close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills (40 CFR 265.310). In addition, for the purposes of closure, post-closure, and financial responsibility, such a tank system is then considered to be a landfill and the closure plan, closure activities, cost estimates for closure, and financial responsibility for tank systems must meet all of the requirements of 40 CFR 265 Subparts G and H.

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D. Containment Buildings:

LQGs that store hazardous waste in containment buildings shall comply with the requirements of 40 CFR part 265 subpart DD, including 40 CFR 265.1102, and the requirements of 40 CFR 265.111 and 265.114. The LQG shall obtain a certification from a professional engineer that the containment building complies with the design standards specified in 40 CFR 265.1101 prior to operation of the unit and shall maintain the following records at the facility:

1. A copy of the professional engineer's certification of the generator's compliance with the design standards in 40 CFR 265.1101.
2. A written description of procedures to ensure that the hazardous waste remains in the containment building for no more than 90 days, a written description of the waste generation and management practices for the facility showing that they are consistent with the 90-day storage limit, and documentation that the generator is complying with the procedures; or
3. Documentation that the containment building is emptied at least once every 90 days.

E. Drip Pads:

LQGs may store waste on drip pads provided that the generator complies with all of the requirements of Subpart W of 40 CFR 265 and maintains the following records at the facility:

1. A written description of procedures that the generator shall follow to ensure that all hazardous wastes are removed from the drip pad and associated collection system at least once every 90 days; and
2. Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal.

F. Labeling:

1. Each accumulation container holding hazardous waste shall be labeled with the following information:
 - (a) The words "Hazardous Waste".
 - (b) The chemical or common name of the waste.
 - (c) Name, address and EPA Identification Number of the generating facility.
2. Each tank holding hazardous waste shall be labeled with the following information:
 - (a) The words "Hazardous Waste".
 - (b) The chemical or common name of the waste.

3. Each satellite accumulation container shall be labeled as required by Rule 5.9 (satellite accumulation).

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G. Notification and Cleanup of Spills or Releases:

In the event of a spill or release of hazardous waste or material that presents any risk of injury to health or the environment, the generator or any other person having knowledge of the spill or release shall immediately notify the Department (daytime-401-222-1360 24hours- 401-222-3070) and provide all requested information dealing with such a spill or release.

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The generator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, he/she must submit a written report on the incident to the Department. The report must include:

1. Name, address, and telephone number of the owner or operator;
2. Name, address, and telephone number of the facility;
3. Date, time, and type of incident (e.g., fire, explosion);
4. Name and quantity of material(s) involved;
5. The extent of injuries, if any;

6. An assessment of actual or potential hazards to human health or the environment, where this is applicable; and
7. Estimated quantity and disposition of recovered material that resulted from the incident.

In accordance with the requirements of 40 CFR 265.56 (b) through (h), the generator shall immediately take steps to prevent, contain and/or clean up the spill or release of hazardous waste or hazardous material and also remove and properly dispose of any materials contaminated by the spill or release, such as contaminated soil or surface water.

H. Spill Prevention, Response Equipment and Arrangements with Local Authorities:

1. LQGs shall maintain and operate their facilities in a manner that minimizes the possibility of a fire, explosion, or any unplanned spill or release of hazardous waste or hazardous waste constituents to the air, soil, or surface waters of the State.
2. LQGs shall be equipped with the following, unless hazards posed by waste handled at the facility would not require a particular piece of equipment specified below. LQGs shall maintain spill control and emergency equipment at or near all areas where hazardous waste is generated and stored at the facility. The spill control equipment shall be designed to be effective when used on the type of hazardous waste typically generated at the subject facility. LQGs shall keep an amount of spill control equipment on-site at all times that is capable of controlling or absorbing a release of waste equal to the volume of the largest hazardous waste container in a specific area. LQGs shall test all communications systems, alarm systems, fire control equipment and decontamination equipment as necessary to maintain the equipment to ensure its proper operation on at least an annual basis. The communications systems, spill control equipment and emergency equipment/materials shall consist of the following:

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- (a) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel.
- (b) A device, such as a telephone (immediately available at the scene of operations), cell phone, or a hand-held two way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams.
- (c) Fire control equipment (including, but not limited to, portable fire extinguishers special extinguishing equipment, such as that using foam, inert gas, or dry chemicals).
- (d) Spill control equipment (including, but not limited to, sorbents, rags, pigs, pads, and drain stops).
- (e) Decontamination equipment (including, but not limited to, eye washer

- and showers).
- (f) Water at adequate volume and pressure to supply water hose streams or foam producing equipment, or automatic sprinklers, or water spray systems.
3. Arrangements shall be made or attempted to be made with the appropriate local authorities, in accordance with the requirements of 40 CFR 265.37.

I. Personnel Training:

LQGs who store hazardous waste on-site shall develop and maintain on-site, a written employee training program and shall provide this training to all of its employees whose job duties involve the handling or management of hazardous waste within six (6) months of their initial hiring date. The training program shall be directed by an individual who has been trained in the area of hazardous waste management regulations by a qualified environmental consultant, qualified academic instructor or by having completed a specialized program of study. The training program shall contain and cover at a minimum the following information:

1. A definition of regulated hazardous waste and a list of hazardous wastes typically generated or stored by the facility.
2. Management procedures that are required to be followed in order to properly handle and store hazardous waste on-site.
3. A description of any applicable regulatory exemptions that are utilized by the company for storing and/or managing hazardous waste generated at the facility.
4. A description of container and tank labeling and dating requirements as appropriate.
5. A description of accumulation (storage) time limits.
6. Waste pre-transport requirements, including proper use of Uniform Hazardous Waste Manifests.
7. Proper implementation of the facility's hazardous waste contingency plan, if applicable, including response to fires or explosions and response to groundwater contamination incidents.
8. Spill prevention and response including procedures for using, inspecting, repairing, and replacing emergency equipment and monitoring equipment, operation of any continuous feed cut-off systems, communication or alarm systems, location and use of emergency response equipment and procedures for the complete shutdown of facility operations.
9. Proper evacuation procedures and routes.
10. LQGs shall provide an annual review of the initial training for all of their employees who handle or manage hazardous waste that covers all of the information listed above. LQGs shall also maintain written documentation of the type and amount of training provided to each employee, the employee's name and job title, a description of the employee's duties and qualifications for the job and a dated sign-in sheet for each training session

for a period of at least three (3) years from the date employees left the facility, for former employees, or until facility closure for current personnel.

J. Hazardous Waste Contingency Plan:

Large quantity generators of hazardous waste shall prepare and develop a site specific written hazardous waste contingency plan for their facilities. The contingency plan shall be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water. The provisions of the plan shall be carried out immediately whenever there is a fire, explosion, or release of hazardous waste or hazardous waste constituents that could threaten human health or the environment. The contingency plan requirements also include the following:

1. The contingency plan shall include a description of actions to be taken by facility personnel in response to a fire, explosion or any unplanned spill or release of hazardous waste or hazardous materials to the air, soil, or waters of the State.
2. The plan shall include a description of the arrangements made with outside emergency responders (police, fire departments, hospitals, contractors, state and local emergency response teams) to coordinate emergency services to the facility
3. The plan shall list the names, addresses, and phone numbers (work and home) of all persons qualified to act as emergency coordinators, shall identify one person as the primary emergency coordinator for the company and other persons shall be listed in the order in which they will assume this role, as alternates. The generator shall ensure that at all times there is at least one employee either on the facility premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures. The list of coordinators shall be kept up to date.
4. The plan shall include a list and description of all emergency equipment (and their capabilities) at the facility (such as fire extinguishers, spill control equipment, communication and alarm systems and decontamination equipment) and shall indicate where such equipment is located throughout the facility. This list shall be kept up to date.
5. The plan shall include an evacuation plan for personnel where there is a possibility that evacuation may be necessary as the result of a fire, explosion, spill or other emergency. The plan shall describe the signal to be used to initiate the evacuation, the routes to be taken by company personnel and alternate routes in the event of blockage of primary routes.
6. Generators shall maintain a copy of the current hazardous waste contingency plan at the facility and shall be able to locate the plan immediately in an emergency or upon request for inspection purposes. A copy of the current plan shall be provided to all agencies (fire department, police department,

- hospital, State or local response agency) that may be called upon to respond to an incident at the facility and/or provide emergency services.
7. Generators shall review and amend the contingency plan as necessary if any of the following occurs:
 - (a) Applicable regulations are revised.
 - (b) The plan fails to work during an emergency or incident.
 - (c) The generator's facility changes in design, construction, operation, maintenance or other manner that materially increases the potential for fires, explosions, releases of hazardous waste or changes the logistics for a response to an incident at the facility.
 - (d) The list of emergency coordinators changes.
 - (e) The type or amount of emergency equipment is changed.

 8. The Hazardous Waste Contingency Plan shall include a list of emergency procedures to be taken by emergency coordinators that shall include at least the following (if applicable to the facility's operations and the types of hazardous wastes generated):
 - (a) The method for activation of alarms or communication systems and notification to DEM (daytime phone 401-222-1360, 24 hour- 401-222-3070) and other agencies with response roles.
 - (b) Whenever there is a release, fire, or explosion, procedures to be carried out by the emergency coordinator(s) to immediately identify the nature and real extent of the hazardous waste involved, assessment of possible hazards to human health or the environment,
 - (c) Emergency procedures to be taken by the emergency coordinator(s) in order to give assistance to outside responders to facilitate evacuation and notification to government officials as required and per 40 CFR 265.56(d)(2) details.
 - (d) Emergency procedures to be taken by emergency coordinators to ensure that fire, explosions, and releases do not occur, recur or spread to other hazardous waste at the facility.
 - (e) Emergency monitoring procedures of leaks, ruptures, pressure build-up and gas generation to be conducted by emergency coordinators if the facility stops operation in response to a fire, explosion, release or other incident.
 - (f) Emergency procedures to be taken by emergency coordinators to provide for storing, treating, or disposing of all wastes, contaminated soil or surface water, and other materials resulting from a fire, explosion, release or other incident.
 - (g) Emergency procedures to be taken by emergency coordinators to ensure that no waste that is incompatible with the released material is stored, treated or disposed of until clean-up is completed and all emergency equipment is cleaned and fit for reuse after an incident and procedures

for the generator to notify the Department that such measures have been taken.

(h) The procedure to be taken by the generator to comply with the notification requirements contained in this Rule and the notification requirements of 40 CFR 265.56(i).

9. The generator or his/her designee shall, in the event of a fire, spill or release, take appropriate action to control and terminate the incident by instituting the measures described in the contingency plan. The generator shall immediately:

(a) In the event of a fire, call the fire department or attempt to extinguish the fire using a fire extinguisher.

(b) In the event of a fire, explosion or other release that could threaten human health or when the generator has reason to suspect that a spill may cause a release to the environment, the generator shall immediately notify the National Response Center. The report shall include the following information:

(i) The name, address and U.S. EPA Identification Number of the generator.

(ii) Date, time and type of incident (e.g., spill or fire).

(iii) Quantity and type of hazardous waste involved in the incident.

(iv) Extent of injuries, if any.

(v) Estimated quantity and disposal of recovered materials, if any.

K. Waste Shipment:

LOGs shall send hazardous waste only to a designated facility. The generator shall not send hazardous waste from the property where it is generated, on-site, without preparing a Manifest to accompany the waste, except where 40 CFR 262.20(f) [transport on a right-of-way within or along a contiguous property] applies and the transporter complies with 40 CFR 263.30 and 263.31 [hazardous waste discharges], nor shall he/she offer hazardous waste to a facility that does not have an EPA I.D. Number, or to a hazardous waste transporter that does not have an EPA I.D. Number and a valid RI Hazardous Waste Transporter Permit as indicated by an official decal on each transportation unit. Use of a permitted hazardous waste transporter and use of a transporter with an EPA I.D. number are not required for those transportation situations where 40 CFR 262.20(f) applies. The following requirements also apply:

1. The generator, except for those shipments of exclusively used oil, shall complete the generator section of the Manifest prior to sending any hazardous waste from the property where it is generated. The generator shall complete this section in accordance with the requirements of 40 CFR 262.20 and the related appendix to 40 CFR 262 (instructions for the uniform hazardous waste Manifest) and the requirements of these rules and

regulations. These requirement include that they manifest be signed only by an authorized employee as per Rule 5.7. The generator will also note in item 13 of the Manifest if the waste is an R006 waste under paragraph A(2) of the “Rhode Island Hazardous Wastes” definition in Rule 3. The generator shall also indicate if the waste is exempt from the generator fee by listing waste codes R011 through R016 if appropriate.

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2. The generator shall complete the generator section of a Manifest prior to the shipment of the waste.
3. The generator shall also maintain a copy of the Manifest for his records. All remaining copies shall be turned over to the hazardous waste transporter and shall accompany the waste through the routing indicated by the generator.
4. The generator shall obtain the signature of the initial transporter and date of acceptance of the manifest as required by 40 CFR 262.23(a)(2). The generator shall also instruct the hazardous waste transporter to return the waste or deliver it to an alternate designated facility if he is unable to deliver it to the primary designated facility.
5. A generator sending or receiving waste to or from a foreign country shall comply with 40 CFR 262 Subpart E, 40 CFR 262 Subpart F and 40 CFR 262 Subpart H.
6. For shipments of hazardous waste to a designated facility in an authorized State which has not yet obtained authorization to regulate that particular waste as hazardous, the generator must assure that the designated facility agrees to sign and return the manifest to the generator, and that any out-of-state transporter signs and forwards the manifest to the designated facility.
7. For shipments of hazardous waste within the United States solely by water (bulk shipments only), the generator must send three copies of the manifest dated and signed in accordance with this section to the owner or operator of the designated facility or the last water (bulk shipment) transporter to handle the waste in the United States if exported by water. Copies of the manifest are not required for each transporter.
8. For rail shipments of hazardous waste within the United States which originate at the site of generation, the generator must send at least three copies of the manifest dated and signed in accordance with this section to:
 - (a) The next non-rail transporter, if any; or
 - (b) The designated facility if transported solely by rail; or
 - (c) The last rail transporter to handle the waste in the United States if exported by rail.
9. A generator shipping wastes via water or rail shall comply with the provisions of 40 CFR 263.20 (e) or (f).
10. In accordance with 40 CFR 262.33, before transporting hazardous waste or offering hazardous waste for transportation off-site, an LQG shall placard or offer the initial transporter the appropriate placards according to U.S. Department of Transportation regulations for hazardous materials under 49 CFR 172 Subpart F.

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11. A generator who does not receive a copy of the manifest with the signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste.

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12. A generator must submit an Exception Report to the Department if he has not received a copy of the manifest with the signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. The Exception Report must include:

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- (a) A legible copy of the manifest for which the generator does not have confirmation of delivery;
- (b) A cover letter signed by the generator or his authorized representative explaining the efforts taken to locate the hazardous waste and the results of those efforts.

13. A generator shall designate on the Manifest one designated facility that is permitted to handle the waste described on the Manifest. A generator may also designate on the Manifest one alternate designated facility that is permitted to handle his waste in the event an emergency prevents delivery of the waste to the primary designated facility.

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14. For rejected shipments of hazardous waste or container residues contained in non-empty containers that are returned to the generator by the designated facility (following the procedures of 40 CFR 264.72(f) or 265.72(f)), the generator must:

- (a) Sign either:
 - (i) Item 20 of the new manifest if a new manifest is used for the returned shipment; or
 - (ii) Item 18c of the original manifest if the original manifest is used for the returned shipment;
- (b) Provide the transporter a copy of the manifest;
- (c) Within 30 days of delivery of the rejected shipment or container residues contained in non-empty containers, send a copy of the manifest to the designated facility that returned the shipment to the generator; and
- (d) Retain at the generator's site a copy of each manifest for at least three years from the date of delivery.

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15. A generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of 40 CFR 264.72 or 40 CFR 265.72 may accumulate the returned waste on-site in accordance with paragraphs (a) and (b) or (d) of this section, depending on the amount of hazardous waste on-site in that calendar month. Upon receipt of the returned shipment, the generator must:

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- (a) Sign item 18c of the manifest, if the transporter returned the shipment using the original manifest; or

(b) Sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.

16. For rejected shipments of hazardous waste or container residues contained in non-empty containers that are forwarded to an alternate facility by a designated facility using a new manifest (following the procedures of 40 CFR 264.72(e)(1) through (6) or 40 CFR 265.72(e)(1) through (6)), the generator must comply with the requirements of above for exception reporting for the shipment forwarding the material from the designated facility to the alternate facility instead of for the shipment from the generator to the designated facility. For purposes of compliance with exception reporting above, for a shipment forwarding such waste to an alternate facility by a designated facility:

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(a) The copy of the manifest received by the generator must have the signature of the owner or operator of the alternate facility as required by 263.20(f)(4)(i) in place of the signature of the owner or operator of the designated facility, and

(b) The 35/45/60-day timeframes begin the date the waste was accepted by the initial transporter forwarding the hazardous waste shipment from the designated facility to the alternate facility.

17. The Director, as he/she deems necessary, may require generators to furnish additional reports concerning the quantities and disposition of wastes identified or listed in 40 CFR part 261.

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18. 40 CFR 262.21 and 262.22 [regarding manifest numbers, obtaining and printing manifest and number of copies of manifests] are incorporated by reference.

19. The Department has **not** adopted the federal exemption from manifesting requirements in 40 CFR 262.20(e) that allows certain waste, reclaimed under certain contractual agreements.

20. In addition to providing the manifest, a generator must provide a one-time Land Disposal Restriction (LDR) notification to the TSD facility as required by 40 CFR 268.7(a)(2) and 40 CFR 268.7(a)(3) as administered by the EPA.

L. Biennial Reports:

LOGs shall prepare and submit a biennial report (on appropriate forms provided by the Department) in accordance with the provisions of 40 CFR 262.41 if required to do so under that rule. The report shall be submitted to the Department by March 1 of the even-number year, that reports hazardous waste activities for the immediately preceding odd-number year. Additional reporting, as per 40 CFR 262.43, may also be required. Household hazardous waste shall be exempt from reporting in the biennial report. The Department may also require a biennial report be submitted by LQGs not required to file a report under 40 CFR 262.41.

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5.14 Small Quantity Generators (SQGs) Waste Management Requirements:

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The following requirements apply to [Small Quantity Generators](#) as defined in Rule 3. As per Rule 5.6C, if an SQG generates or stores more waste than specified in the definition of [an SQG](#) in Rule 3, he/she must notify the Department and manage the waste in accordance with the provisions of [Rule 5.13](#) (LQG).

A. Hazardous Waste Storage:

Hazardous waste may be stored on-site for a period not to exceed one hundred eighty (180) days, without first obtaining a storage permit as required by Hazardous Waste Rule 7. Hazardous waste shall be managed in accordance with these Rules and Regulations. Hazardous waste may not be stored in containment buildings or drip pads. [An SQG who stores hazardous waste for more than 180 days is an operator of a storage facility and is subject to the Rule 8 operational requirements for treatment, storage, and disposal facilities requirements, 40 CFR 264, and the permit requirements of Rule 7.](#)

B. Hazardous Waste Accumulation in Containers:

Hazardous waste may be stored in containers provided that the generator:

1. Marks the side of containers holding hazardous waste with the date upon which the waste first began to accumulate.
2. Keeps all containers holding hazardous waste closed except when it is necessary to add or remove waste.
3. Opens, handles and stores containers holding hazardous waste in a manner that does not, or is not likely to, cause a spill or release of hazardous waste.
4. Immediately transfers hazardous waste from any and all containers that are not in good condition as a result of physical or chemical forces that have reduced the containers structural integrity, or if they begin to leak, to a container(s) that is in good condition and compatible with the hazardous waste being transferred.
5. Stores all containers holding ignitable or reactive hazardous waste in an area that is at least fifty (50) feet from any property boundary lines.
6. Uses containers constructed of, or lined with, a material that is chemically compatible with the hazardous waste placed into the containers, so that the ability of the container to hold the waste is not impaired.
7. Does not place incompatible wastes in the same container unless the mixing is accomplished so that it does not generate extreme heat or pressure, does not initiate a fire, explosion or violent reaction and does not produce uncontrolled toxic mists, fumes, dust or gases and does not damage the structural integrity of the device containing the waste, and does not threaten human health and the environment through other like means.
8. Conducts inspections on a weekly basis of all containers holding hazardous waste for signs of deterioration and or corrosion of the containers and for any

signs of leaks or releases of hazardous waste. The inspection shall also include a visual examination of all containment systems and devices to ensure that they are free of any cracks, gaps or other imperfections. Generators shall maintain a written record documenting the date and time of each inspection, the person that conducted the inspection and whether any release was identified, container was replaced or repair needed to containment conditions, of the result of each inspection for a period of at least three (3) years.

9. Stores hazardous wastes that when mixed would result in an unintended reaction or are otherwise not compatible in separate containers designed to contain the subject hazardous wastes. Containers holding hazardous wastes shall be stored in separate locations from incompatible wastes or materials present on-site and isolated by a physical barrier (e.g., a dike, berm, or wall) constructed of or lined with a material that is resistant to the hazardous waste stored in the area.
10. Does not place hazardous waste in an unwashed container that previously held an incompatible waste or material, unless the conditions listed in (B)(7) above are satisfied.

C. Accumulation in Tanks:

SQGs that store hazardous waste in tanks shall comply with all of the requirements listed below. All generators storing hazardous waste in underground storage tanks shall also comply with the Rhode Island *Rules and Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials*. SQGs storing hazardous waste in aboveground tanks shall comply with the following:

1. Tank Systems without Containment.

SQGs that store hazardous waste in tank systems that are not equipped with a secondary containment feature shall inspect the tank systems once each operating day and shall maintain a written record of each inspection. The inspection shall include at least the following:

- (a) Overfill/spill control equipment (e.g., waste feed cutoff systems, bypass systems and drainage systems) to ensure they are in working order.
- (b) Visual inspection of the aboveground sections of a tank for signs of corrosion or release of waste.
- (c) The construction materials and area immediately surrounding the tank system's discharge confinement structures, if any, looking for signs of corrosion and for signs of a release of hazardous waste.
- (d) Any and all monitoring equipment that is part of the tank system to ensure that it is operating properly.
- (e) The level of the waste in the tank to ensure at least 2 feet of freeboard.

2. Tank Systems with Containment.

SQGs that store hazardous waste in tank systems that are equipped with a secondary containment feature shall inspect the tank systems once every week and shall maintain a record of each inspection. The inspection shall include at least the following:

 - (a) Overfill/spill control equipment (e.g., waste feed cutoff systems, bypass systems and drainage systems) to ensure they are in working order.
 - (b) Visual inspection of the aboveground sections of a tank for signs of corrosion.
 - (c) The construction materials and area immediately surrounding the tank system's secondary containment, looking for signs of corrosion and for signs of a release of hazardous waste.
 - (d) Any and all monitoring equipment that is part of the tank system to ensure that it is operating properly.
 - (e) The level of waste in the tank to ensure at least 2 feet of freeboard.
3. SQGs that store hazardous waste in tanks shall comply with all of the following requirements:
 - (a) **Waste Accumulation:** Hazardous waste shall be stored in tanks for a period of time not to exceed one hundred-eighty (180) days from the date the waste was first placed into the tank.
 - (b) **Accumulation Start Date:** The side of a tank holding hazardous waste shall be marked with the date the waste first began to accumulate, or a written log shall be maintained that records the date that hazardous waste was first placed into or removed from the tank. The written log shall be posted on the tank or within ten (10) feet of the tank.
 - (c) **Construction:** Hazardous waste shall be placed into a tank system that is constructed of, or lined with, material that is compatible with the hazardous waste.
 - (d) **Spill Prevention:** Appropriate controls and procedures shall be used to prevent spills and overflows from the tank system or secondary containment device. These shall include at least the following:
 - (i) Spill prevention controls (e.g., check valves).
 - (ii) Overfill controls (e.g., level sensing alarms, high level alarms, automatic waste feed cutoff systems, by-pass to standby tank).
 - (iii) Maintenance of sufficient freeboard (at least 2 feet) in uncovered tanks to prevent overtopping by wave action.
 - (e) **Inappropriate Wastes and Incompatible Wastes:** Hazardous waste or treatment reagents shall not be placed in a tank if they could cause the tank or its inner liner to rupture, leak, corrode, or otherwise fail before the end of its intended life. Incompatible hazardous wastes, or incompatible wastes and materials, shall not be placed into the same tank system if the wastes have the potential to cause the

tank to leak or otherwise damage the tank system and unless the generator complies with 40 CFR 265.17(b) requirements. Hazardous waste shall not be placed in an unwashed tank which previously held an incompatible waste or material, unless 40 CFR 265.17(b) is complied with.

(f) **Ignitable or Reactive Wastes:**

(i) Ignitable or reactive wastes shall not be placed into a tank system unless the generator complies with the requirements in 40 CFR 265.17(b) and:

- Treats, renders or mixes the hazardous waste so that the waste is no longer ignitable or reactive; or
- The waste is stored or handled in such a way that it is protected from any material or conditions that may cause the waste to ignite or react; or
- The tank system is used solely for emergency storage.

(ii) Generators storing ignitable or reactive wastes in tanks shall also locate the tanks on the site away from the public ways or property boundaries in compliance with Table 2-1 through 2-6 of the buffer zone requirements of the National Fire Protection Association's "Flammable and Combustible Liquids Code" (1977 or 1981).

(g) **Tank Failure:** a tank system shall immediately be removed from service that fails or leaks waste. Additionally the generator shall meet the following requirements:

(i) Immediately stop the flow of waste to the tank system, inspect the tank system to determine the source of the release, and complete repairs, as required by 40 CFR 265.196(e), before allowing further use. Major repairs require the contractor conducting the repair certify that the tank meets the requirements of 40 CFR 265.196(e).

(ii) Remove all waste from the tank system within 24 hours of the discovery of the release and manage said waste in accordance with these regulations.

(iii) If waste was released to the secondary containment system, the generator shall remove all accumulated hazardous waste from the secondary containment device and manage said waste in accordance with these regulations.

(h) **Notification of Spills:** Comply with the requirements of [notification of spills](#) relating to spill reporting and mitigation from tanks.

(i) **Closure Actions:** Upon closure of the tank, or termination of the process that generated the waste stored in the tank system, all hazardous waste in tanks, discharge control equipment, and discharge confinement structures shall be removed or properly managed.

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D. Labeling:

1. Each accumulation container holding hazardous waste shall be labeled with the following information:
 - (a) The words “Hazardous Waste”.
 - (b) The chemical or common name of the waste.
 - (c) Name, address and EPA Identification Number of the generating facility.

2. Each tank holding hazardous waste shall be labeled with the following information:
 - (a) The words “Hazardous Waste”.
 - (b) The chemical or common name of the waste.

3. Each satellite accumulation container shall be labeled in accordance with Rule 5.9 (satellite accumulation).

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E. Personnel Training:

SQGs shall ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies. They shall also document that each employee has been made aware of proper waste handling and emergency procedures and maintain copies of this information on-site. SQGs who manage their hazardous waste in satellite accumulation containers only are not required to provide training to its personnel provided that they maintain full compliance with the satellite accumulation requirements of these rules (5.9). The training program shall be directed by an individual who has been trained in the area of hazardous waste management regulations by a qualified environmental consultant, qualified academic instructor or by a person having completed a specialized program of study. The training program shall contain and cover at a minimum the following information:

1. A definition of regulated hazardous waste and a list of hazardous wastes typically generated or stored by the facility.
2. Management procedures that are required to be followed in order to properly handle and store hazardous waste on-site.
3. A description of any applicable regulatory exemptions that are utilized by the company for storing and/or managing hazardous waste generated at the facility.
4. A description of container and tank labeling and dating requirements as appropriate.
5. A description of accumulation (storage) time limits.
6. Waste pre-transport requirements, including proper use of Uniform Hazardous Waste Manifests.

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7. Proper implementation of the facility's hazardous waste contingency plan, if applicable, including response to fires or explosions and response to groundwater contamination incidents.
8. Spill prevention and response including procedures for using, inspecting, repairing, and replacing emergency equipment and monitoring equipment, operation of any continuous feed cut-off systems, communication or alarm systems, location and use of emergency response equipment and procedures for the complete shutdown of facility operations.
9. Proper evacuation procedures and routes.

F. Notification and Cleanup of Spills or Releases:

In the event of a spill or release of hazardous waste or material that presents any risk of injury to health or the environment, the generator or any other person having knowledge of the spill or release shall immediately notify the Department (daytime-401-222-1360 24 hours 401-222-3070) and provide all requested information dealing with such a spill or release.

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The generator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, he/she must submit a written report on the incident to the Department. The report must include:

1. Name, address, and telephone number of the owner or operator;
2. Name, address, and telephone number of the facility;
3. Date, time, and type of incident (e.g., fire, explosion);
4. Name and quantity of material(s) involved;
5. The extent of injuries, if any;
6. An assessment of actual or potential hazards to human health or the environment, where this is applicable; and
7. Estimated quantity and disposition of recovered material that resulted from the incident.

In accordance with the requirements of 40 CFR 265.56 (b) through (h), the generator shall immediately take steps to prevent, contain and/or clean up the spill or release of hazardous waste or material and also remove and properly dispose of any materials contaminated by the spill or release, such as contaminated soil or surface water.

G. Spill Prevention, Response Equipment and Arrangements with Local Authorities:

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1. SQGs shall maintain and operate their facilities in a manner that minimizes the possibility of a fire, explosion, or any unplanned spill or release of hazardous waste or hazardous waste constituents to the air, soil, or surface waters of the State.
2. SQGs shall be equipped with the following, unless hazards posed by waste handled at the facility would not require a particular piece of equipment

specified below. SQGs shall maintain spill control and emergency equipment at or near all areas where hazardous waste is generated and stored at the facility. The spill control equipment shall be designed to be effective when used on the type of hazardous waste typically generated at the subject facility. SQGs shall keep an amount of spill control equipment on-site at all times that is capable of controlling or absorbing a release of waste equal to the volume of the largest hazardous waste container in a specific area. SQGs shall test all communications systems, alarm systems, fire control equipment and decontamination equipment as necessary to maintain the equipment to ensure its proper operation on at least an annual basis. The communications systems, spill control equipment and emergency equipment/materials shall consist of the following:

- (a) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel.
 - (b) A device, such as a telephone (immediately available at the scene of operations), cell phone, or a hand-held two way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams.
 - (c) Fire control equipment (including, but not limited to, portable fire extinguishers special extinguishing equipment, such as that using foam, inert gas, or dry chemicals).
 - (d) Spill control equipment (including, but not limited to, sorbents, rags, pigs, pads, and drain stops).
 - (e) Decontamination equipment (including, but not limited to, eye washer and showers).
 - (f) Water at adequate volume and pressure to supply water hose streams or foam producing equipment, or automatic sprinklers, or water spray systems.
3. Arrangements shall be made or attempted to be made with the appropriate local authorities, in accordance with the requirements of 40 CFR 265.37.

H. Hazardous Waste Contingency Plan:

1. SQGs shall not be required to develop a hazardous waste contingency plan provided that they comply with the following requirements:
 - (a) At all times, one employee is on-site, or on call and able to return to the facility in a short period of time, to act as an emergency response coordinator and be responsible for implementing the necessary response measures for the situation.
 - (b) The generator shall post the name and telephone number of the emergency response coordinator, telephone number of the local fire department, DEM (day 401-222-3812, 24 hour 401-222-3070), National

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 ¶ SQGs shall ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies. They shall also document that each employee has been made aware of proper waste handling and emergency procedures and maintain copies of this information on-site. SQGs who manage their hazardous waste in satellite accumulation containers only are not required to provide training to its personnel provided that they maintain full compliance with the [satellite accumulation requirements](#) of these rules (5.9). The training program shall be directed by an individual who has been trained in the area of hazardous waste management regulations by a qualified environmental consultant, qualified academic instructor or by a person having completed a specialized program of study. The training program shall contain and cover at a minimum the following information:¶
 ¶
 <#>A definition of regulated hazardous waste and a list of hazardous wastes typically generated or stored by the facility.¶
 <#>Management procedures that are required to be followed in order to properly handle and store hazardous waste on-site.¶
 <#>A description of any applicable regulatory exemptions that are utilized by the company for storing and/or managing hazardous waste generated at the facility.¶
 <#>A description of container and tank labeling and dating requirements.¶
 <#>A description of accumulation (storage) time limits.¶
 <#>Waste pre-transport requirements, including proper use of Uniform Hazardous Waste Manifests.¶
 <#>Proper implementation of the facility's hazardous waste contingency plan, if applicable, including response to fires or explosions and response to groundwater contamination incidents.¶
 <#>Spill prevention and response including procedures for using, inspecting, repairing, and replacing emergency equipment and monitoring equipment, operation of any continuous feed cut-off systems, communication or alarm systems, location and use of emergency response equipment and procedures for the complete shutdown of facility operations.¶
 <#>Proper evacuation procedures and routes.¶

Response Center and the environmental contractor on call to clean up spills next to any and all telephones in the vicinity of the hazardous waste storage area.

- (c) Conspicuously mark the location of fire extinguishers, spill control equipment and fire alarm (if present) and post the location of these items next to any and all phones in the vicinity of the hazardous waste storage area; and
- (d) Take immediate action to clean up any spills or releases of hazardous waste and any contaminated materials or soils. This shall include employing an environmental clean up contractor if the spill or release exceeds the capabilities of the on-site employees.

2. The generator or his designee shall respond to any emergencies that arise. The required responses are as follows:

- (a) In the event of a fire, call the fire department or attempt to extinguish the fire using a fire extinguisher.
- (b) In the event of a fire, explosion or other release that could threaten human health or when the generator has reason to suspect that a spill may result in a release to the environment, the generator shall immediately notify the National Response Center. The report shall include the following information:

- (i) The name, address and U.S. EPA Identification Number of the generator.
- (ii) Date, time and type of incident (e.g., spill or fire).
- (iii) Quantity and type of hazardous waste involved in the incident.
- (iv) Extent of injuries, if any.
- (v) Estimated quantity and disposal of recovered materials, if any.

I. Waste Shipment:

SQGs shall send hazardous waste only to a designated facility. The generator shall not send hazardous waste from the property where it is generated, on-site, without preparing a Manifest to accompany the waste, except where 40 CFR 262.20(f) applies and the transporter complies with 40 CFR 263.30 and 263.31, nor shall he/she offer hazardous waste to a facility that does not have an EPA I.D. Number, or to a hazardous waste transporter that does not have an EPA I.D. Number and a valid RI Hazardous Waste Transporter Permit as indicated by an official decal on each transportation unit. Use of a permitted hazardous waste transporter and use of a transporter with an EPA I.D. number are not required for those transportation situations where 40 CFR 262.20(f) applies. The following requirements also apply:

1. The generator, except for those shipments of exclusively used oil, shall complete the generator section of the Manifest prior to sending any hazardous waste from the property where it is generated. The generator shall complete this section in accordance with the requirements of 40 CFR 262.20 and the related appendix to 40 CFR 262 (instructions for the uniform hazardous waste Manifest) and the requirements of these rules and regulations. These requirement include that they manifest be signed only by an authorized employee as per Rule 5.7. The generator will also note in item 13 of the Manifest if the waste is an R006 waste under paragraph A(2) of the “Rhode Island Hazardous Wastes” definition in Rule 3. The generator shall also indicate if the waste is exempt from the generator fee by listing waste codes R011 through R016 if appropriate.
2. The generator shall complete the generator section of a Manifest prior to the shipment of the waste.
3. The generator shall also maintain a copy of the Manifest for his records. All remaining copies shall be turned over to the hazardous waste transporter and shall accompany the waste through the routing indicated by the generator.
4. The generator shall obtain the signature of the initial transporter and date of acceptance of the manifest as required by 40 CFR 262.23(a)(2). A generator shall also instruct the hazardous waste transporter to return the waste or deliver it to an alternate designated facility if he is unable to deliver it to the primary designated facility.
5. A generator sending or receiving waste to or from a foreign country shall comply with 40 CFR 262 Subpart E, 40 CFR 262 Subpart F and 40 CFR 262 Subpart H.
6. For shipments of hazardous waste to a designated facility in an authorized State which has not yet obtained authorization to regulate that particular waste as hazardous, the generator must assure that the designated facility agrees to sign and return the manifest to the generator, and that any out-of-state transporter signs and forwards the manifest to the designated facility.
7. For shipments of hazardous waste within the United States solely by water (bulk shipments only), the generator must send three copies of the manifest dated and signed in accordance with this section to the owner or operator of the designated facility or the last water (bulk shipment) transporter to handle the waste in the United States if exported by water. Copies of the manifest are not required for each transporter.
8. For rail shipments of hazardous waste within the United States which originate at the site of generation, the generator must send at least three copies of the manifest dated and signed in accordance with this section to:
 - (a) The next non-rail transporter, if any; or
 - (b) The designated facility if transported solely by rail; or
 - (c) The last rail transporter to handle the waste in the United States if exported by rail.
9. A generator shipping wastes via water or rail shall comply with the provisions of 40 CFR 263.20 (e) or (f).

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10. In accordance with 40 CFR 262.33, before transporting hazardous waste or offering hazardous waste for transportation off-site, an SQG must placard or offer the initial transporter the appropriate placards according to U.S. Department of Transportation regulations for hazardous materials under 49 CFR 172 Subpart F.
11. A generator who does not receive a copy of the manifest with the signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste.
12. A generator must submit an Exception Report to the Department if he has not received a copy of the manifest with the signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. The Exception Report must include:
 - (a) A legible copy of the manifest for which the generator does not have confirmation of delivery;
 - (b) A cover letter signed by the generator or his authorized representative explaining the efforts taken to locate the hazardous waste and the results of those efforts.
13. A generator shall designate on the Manifest one designated facility, that is permitted to handle the waste described on the Manifest. A generator may also designate on the Manifest one alternate designated facility that is permitted to handle his waste in the event an emergency prevents delivery of the waste to the primary designated facility.
14. For rejected shipments of hazardous waste or container residues contained in non-empty containers that are returned to the generator by the designated facility (following the procedures of 40 CFR 264.72(f) or 265.72(f)), the generator must:
 - (a) Sign either:
 - (i) Item 20 of the new manifest if a new manifest is used for the returned shipment; or
 - (ii) Item 18c of the original manifest if the original manifest is used for the returned shipment;
 - (b) Provide the transporter a copy of the manifest;
 - (c) Within 30 days of delivery of the rejected shipment or container residues contained in non-empty containers, send a copy of the manifest to the designated facility that returned the shipment to the generator; and
 - (d) Retain at the generator's site a copy of each manifest for at least three years from the date of delivery.
15. A generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of 40 CFR 264.72 or 40 CFR 265.72 may accumulate the returned waste on-site in accordance with paragraphs (a) and (b) or (d) of this section, depending on the amount of

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hazardous waste on-site in that calendar month. Upon receipt of the returned shipment, the generator must:

- (a) Sign item 18c of the manifest, if the transporter returned the shipment using the original manifest; or
- (b) Sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.

16. For rejected shipments of hazardous waste or container residues contained in non-empty containers that are forwarded to an alternate facility by a designated facility using a new manifest (following the procedures of 40 CFR 264.72(e)(1) through (6) or 40 CFR 265.72(e)(1) through (6)), the generator must comply with the requirements of above for exception reporting for the shipment forwarding the material from the designated facility to the alternate facility instead of for the shipment from the generator to the designated facility. For purposes of compliance with exception reporting above, for a shipment forwarding such waste to an alternate facility by a designated facility:

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- (a) The copy of the manifest received by the generator must have the signature of the owner or operator of the alternate facility as required by 263.20(f)(4)(i) in place of the signature of the owner or operator of the designated facility, and
- (b) The 35/45/60-day timeframes begin the date the waste was accepted by the initial transporter forwarding the hazardous waste shipment from the designated facility to the alternate facility.

17. The Director, as he/she deems necessary, may require generators to furnish additional reports concerning the quantities and disposition of wastes identified or listed in 40 CFR part 261.

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18. 40 CFR 262.21 and 262.22 [regarding manifest numbers, obtaining and printing manifest and number of copies of manifests] are incorporated by reference.

19. The Department has **not** adopted the federal exemption from manifesting requirements in 40 CFR 262.20(e) that allows certain waste, reclaimed under certain contractual agreements.

20. In addition to providing the manifest, a generator must provide a one-time Land Disposal Restriction (LDR) notification to the TSD facility as required by 40 CFR 268.7(a)(2) and 40 CFR 268.7(a)(3) as administered by the EPA.

5.15 Conditionally Exempt Small Quantity Generators (CESQGs)- Waste Management Requirements

The following requirements apply to Conditionally Exempt Small Quantity Generators as defined in Rule 3. As per Rule 5.6C, if a CESQG generates or stores more waste than specified in the definition of a CESQG in Rule 3, he/she must notify the Department and manage the waste in accordance with the provisions of Rule 5.13 (LQG) or Rule 5.14 (SQG) as appropriate.

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A. Hazardous Waste Storage and Conditional Exemption Requirement:

Hazardous waste may be stored on-site for a period not to exceed three hundred and sixty five (365) days, without first obtaining a storage permit as required by Hazardous Waste Rule 7. Hazardous waste shall be managed in accordance with these Rules and Regulations. Hazardous waste may not be stored in containment buildings or drip pads. [A CESQG who stores hazardous waste for more than 365 days is an operator of a storage facility and is subject to the Rule 8 operational requirements for treatment, storage, and disposal facilities requirements, 40 CFR 264, and the permit requirements of Rule 7.](#)

B. Hazardous Waste Accumulation in Containers:

Hazardous waste may be stored in containers provided that the CESQG:

1. Marks the side of containers holding hazardous waste with the date upon which the waste first began to accumulate.
2. Keeps all containers holding hazardous waste closed except when it is necessary to add or remove waste.
3. Opens, handles and stores containers holding hazardous waste in a manner that does not, or is not likely to, cause a spill or release of hazardous waste.
4. Immediately transfers hazardous waste from any and all containers that are not in good condition as a result of physical or chemical forces that have reduced the container's structural integrity, or if they begin to leak, to a container(s) that is in good condition and compatible with the hazardous waste being transferred.
5. Uses containers constructed of, or lined with, a material that is chemically compatible with the hazardous waste placed into the containers, so that the ability of the container to hold the waste is not impaired.
6. Does not place incompatible wastes in the same container unless the mixing is accomplished so that it does not generate extreme heat or pressure, does not initiate a fire, explosion or violent reaction and does not produce uncontrolled toxic mists, fumes, dust or gases and does not damage the structural integrity of the device containing the waste, and that does not threaten human health or the environment through like means.
7. Conducts inspections on a weekly basis of all containers holding hazardous waste for signs of deterioration and or corrosion of the containers and for any signs of leaks or releases of hazardous waste. The inspection shall also include a visual examination of all containment systems and devices to ensure that they are free of any cracks, gaps or other imperfections. Generators shall maintain a written record documenting the date and time of each inspection, the person that conducted the inspection and whether any release was identified, container was replaced or repair needed to containment conditions, of the result of each inspection for a period of at least three (3) years.

8. Stores hazardous wastes that when mixed would result in an unintended reaction or are otherwise not compatible in separate containers designed to contain the subject hazardous wastes. Containers holding hazardous wastes shall be stored in separate locations from incompatible wastes or materials present on-site and isolated by a physical barrier (e.g., a dike, berm, or wall) constructed of or lined with a material that is resistant to the hazardous waste stored in the area.
10. Does not place hazardous waste in an unwashed container that previously held an incompatible waste or material, unless the conditions in (B)(7) above are satisfied.

C. Accumulation in Tanks:

CESQGs shall not store hazardous waste in tanks.

D. Labeling:

1. Each accumulation container holding hazardous waste shall be labeled with the following information:
 - (a) The words “Hazardous Waste”.
 - (b) The chemical or common name of the waste.
 - (c) Name, address and EPA Identification Number of the generating facility.
2. Each satellite accumulation container shall be labeled in accordance with Rule 5.9 (satellite accumulation).

E. Personnel Training:

Hazardous Waste training is not required for CESQGs.

F. Notification and Cleanup of Spills or Releases:

In the event of a spill or release of hazardous waste or material that presents any risk of injury to health or the environment, the generator or any other person having knowledge of the spill or release shall immediately notify the Department (daytime-401-222-1360 24hours 401-222-3070) and provide all requested information dealing with such a spill or release.

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The generator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, he/she must submit a written report on the incident to the Department. The report must include:

1. Name, address, and telephone number of the owner or operator;
2. Name, address, and telephone number of the facility;
3. Date, time, and type of incident (e.g., fire, explosion);
4. Name and quantity of material(s) involved;
5. The extent of injuries, if any;

6. An assessment of actual or potential hazards to human health or the environment, where this is applicable; and
7. Estimated quantity and disposition of recovered material that resulted from the incident.

In accordance with the requirements of 40 CFR 265.56 (b) through (h), the generator shall immediately take steps to prevent, contain and/or clean up the spill or release of hazardous waste or material and also remove and properly dispose of any materials contaminated by the spill or release, such as contaminated soil or surface water.

G. Spill Prevention, Response Equipment and Arrangements with Local Authorities:

1. The facility shall be maintained and operated in a manner that minimizes the possibility of a fire, explosion, or any unplanned spill or release of hazardous waste or hazardous waste constituents to the air, soil, or surface waters of the State.
2. Arrangements shall be made or attempted to be made with the appropriate local authorities, per 40 CFR 265.37 details.

H. Hazardous Waste Contingency Plan:

1. CESQGs shall not be required to develop a hazardous waste contingency plan provided that they comply with the following requirements:
 - (a) At all times, one employee is on-site, or on call and able to return to the facility in a short period of time, to act as an emergency response coordinator and be responsible for implementing the necessary response measures for the situation.
 - (b) The generator shall post the name and telephone number of the emergency response coordinator, telephone number of the local fire department, DEM (day 401-222-3812, 24 hour 401-222-3070), National Response Center and the environmental contractor on call to clean up spills next to any and all telephones in the vicinity of the hazardous waste storage area.
 - (c) Conspicuously mark the location of fire extinguishers, spill control equipment and fire alarm (if present) and post the location of these items next to any and all phones in the vicinity of the hazardous waste storage area; and
 - (d) Take immediate action to clean up any spills or releases of hazardous waste and any contaminated materials or soils. This shall include employing an environmental clean up contractor if the spill or release exceeds the capabilities of the on-site employees.
2. The generator or his designee shall respond to any emergencies that arise. The required responses are as follows:

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- (a) In the event of a fire, call the fire department or attempt to extinguish the fire using a fire extinguisher.
- (b) In the event of a fire, explosion or other release that could threaten human health or when the generator has reason to suspect that a spill may result in a release to the environment, the generator shall immediately notify the National Response Center. The report shall include the following information:
 - (i) The name, address and U.S. EPA Identification Number of the generator.
 - (ii) Date, time and type of incident (e.g., spill or fire).
 - (iii) Quantity and type of hazardous waste involved in the incident.
 - (iv) Extent of injuries, if any.
 - (v) Estimated quantity and disposal of recovered materials, if any.

I. Waste Shipment:

CESQGs shall send hazardous waste only to a [designated facility](#) or [Paint Collection Center](#) or [Community Collection Center](#).

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CESQGs may self transport waste provided that wastes are delivered directly to a Community Collection Center or Paint Collection Center.

Wastes not delivered directly to a Paint Collection Center or Community Collection Center must be sent to a [designated facility](#) subject to the requirements below:

The generator shall not send hazardous waste from the property where it is generated, on-site, without preparing a Manifest to accompany the waste, except for self transport to a Paint Collection Center or Community Collection Center or where 40 CFR 262.20(f) applies and the transporter complies with 40 CFR 263.30 and 263.31. The generator also shall not offer hazardous waste to a facility that does not have an EPA I.D. Number, or to a hazardous waste transporter that does not have an EPA I.D. Number and a valid RI Hazardous Waste Transporter Permit as indicated by an official decal on each transportation unit. Use of a permitted hazardous waste transporter and use of a transporter with an EPA I.D. number are not required for those transportation situations where 40 CFR 262.20(f) applies. The following requirements also apply:

1. The generator, except for those shipments of exclusively used oil, shall complete the generator section of the Manifest prior to sending any hazardous waste from the property where it is generated. The generator shall complete this section in accordance with the requirements of 40 CFR 262.20 and the related appendix to 40 CFR 262 (instructions for the uniform hazardous waste Manifest) and the requirements of these rules and

regulations. These requirement include that they manifest be signed only by an authorized employee as per Rule 5.7. The generator will also note in item 13 of the Manifest if the waste is an R006 waste under paragraph A(2) of the “Rhode Island Hazardous Wastes” definition in Rule 3. The generator shall also indicate if the waste is exempt from the generator fee by listing waste codes R011 through R016 if appropriate.

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2. The generator shall complete the generator section of a Manifest prior to the shipment of the waste.
3. The generator shall also maintain a copy of the Manifest for his records. All remaining copies shall be turned over to the hazardous waste transporter and shall accompany the waste through the routing indicated by the generator.
4. The generator shall obtain the signature of the initial transporter and date of acceptance of the manifest. A generator shall also instruct the hazardous waste transporter to return the waste or deliver it to an alternate designated facility if he is unable to deliver it to the primary designated facility.
5. A generator sending or receiving waste to or from a foreign country shall comply with 40 CFR 262 Subpart E, 40 CFR 262 Subpart F and 40 CFR 262 Subpart H.
6. For shipments of hazardous waste to a designated facility in an authorized State which has not yet obtained authorization to regulate that particular waste as hazardous, the generator must assure that the designated facility agrees to sign and return the manifest to the generator, and that any out-of-state transporter signs and forwards the manifest to the designated facility.
7. For shipments of hazardous waste within the United States solely by water (bulk shipments only), the generator must send three copies of the manifest dated and signed in accordance with this section to the owner or operator of the designated facility or the last water (bulk shipment) transporter to handle the waste in the United States if exported by water. Copies of the manifest are not required for each transporter.
8. For rail shipments of hazardous waste within the United States which originate at the site of generation, the generator must send at least three copies of the manifest dated and signed in accordance with this section to:
 - (a) The next non-rail transporter, if any; or
 - (b) The designated facility if transported solely by rail; or
 - (c) The last rail transporter to handle the waste in the United States if exported by rail.
9. A generator shipping wastes via water or rail shall comply with the provisions of 40 CFR 263.20 (e) or (f).
10. In accordance with 40 CFR 262.33, before transporting hazardous waste or offering hazardous waste for transportation off-site, a CESQG must placard or offer the initial transporter the appropriate placards according to U.S. Department of Transportation regulations for hazardous materials under 49 CFR 172 Subpart F.
11. A generator who does not receive a copy of the manifest with the signature of the owner or operator of the designated facility within 35 days of the date the

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Deleted: <#> Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator certification, and signatures) and, for exports an EPA Acknowledgment of Consent accompanies the hazardous waste at all times. NOTE: Intermediate rail transporters are not required to sign either the manifest or shipping paper.¶
<#> When delivering hazardous waste to the designated facility, a rail transporter must:¶
<#> Obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or the shipping paper (if the manifest has not been received by the facility); and¶
<#> Retain a copy of the manifest or signed shipping paper in accordance with § 263.22.¶
<#> When delivering hazardous waste to a non-rail transporter a rail transporter must:¶
<#> Obtain the date of delivery and the handwritten signature of the next non-rail transporter on the manifest; and¶
<#> Retain a copy of the manifest in accordance with § 263.22.¶
<#> Before accepting hazardous waste from a rail transporter, a non-rail transporter must sign and date the manifest and provide a copy to the rail transporter.¶

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waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste.

12. A generator must submit an Exception Report to the Department if he has not received a copy of the manifest with the signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. The Exception Report must include:
- (a) A legible copy of the manifest for which the generator does not have confirmation of delivery;
 - (b) A cover letter signed by the generator or his authorized representative explaining the efforts taken to locate the hazardous waste and the results of those efforts.

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13. A generator shall designate on the Manifest one designated facility that is permitted to handle the waste described on the Manifest. A generator may also designate on the Manifest one alternate designated facility that is permitted to handle his waste in the event an emergency prevents delivery of the waste to the primary designated facility.

Deleted: <#>A generator who does not receive a copy of a Manifest from the designated facility to which that waste was sent within 35 days of the date that waste was accepted by the initial hazardous waste transporter shall comply with the provisions of 40 CFR 262.42(a)(1-2) and file an exception report with the Department. [The provisions of 40 CFR 262.42(a)(1-2) are incorporated by reference, except for the words " of 1000 kilograms or greater of hazardous waste in a calendar month, or greater than 1 Kg of acutely hazardous waste listed in § 261.31 or § 261.33(e) in a calendar month," in (a)(1-2)] ¶

14. For rejected shipments of hazardous waste or container residues contained in non-empty containers that are returned to the generator by the designated facility (following the procedures of 40 CFR 264.72(f) or 265.72(f)), the generator must:

- (a) Sign either:
 - (i) Item 20 of the new manifest if a new manifest is used for the returned shipment; or
 - (ii) Item 18c of the original manifest if the original manifest is used for the returned shipment;
- (b) Provide the transporter a copy of the manifest;
- (c) Within 30 days of delivery of the rejected shipment or container residues contained in non-empty containers, send a copy of the manifest to the designated facility that returned the shipment to the generator; and
- (d) Retain at the generator's site a copy of each manifest for at least three years from the date of delivery.

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15. A generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of 40 CFR 264.72 or 40 CFR 265.72 may accumulate the returned waste on-site in accordance with paragraphs (a) and (b) or (d) of this section, depending on the amount of hazardous waste on-site in that calendar month. Upon receipt of the returned shipment, the generator must:

- (a) Sign item 18c of the manifest, if the transporter returned the shipment using the original manifest; or
- (b) Sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.

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16. For rejected shipments of hazardous waste or container residues contained in non-empty containers that are forwarded to an alternate facility by a designated facility using a new manifest (following the procedures of 40 CFR 264.72(e)(1) through (6) or 40 CFR 265.72(e)(1) through (6)), the generator must comply with the requirements of above for exception reporting for the shipment forwarding the material from the designated facility to the alternate facility instead of for the shipment from the generator to the designated facility. For purposes of compliance with exception reporting above, for a shipment forwarding such waste to an alternate facility by a designated facility:

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- (a) The copy of the manifest received by the generator must have the signature of the owner or operator of the alternate facility as required by 263.20(f)(4)(i) in place of the signature of the owner or operator of the designated facility, and
- (b) The 35/45/60-day timeframes begin the date the waste was accepted by the initial transporter forwarding the hazardous waste shipment from the designated facility to the alternate facility.

17. The Director, as he/she deems necessary, may require generators to furnish additional reports concerning the quantities and disposition of wastes identified or listed in 40 CFR part 261.

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18. 40 CFR 262.21 and 262.22 [regarding manifest numbers, obtaining and printing manifest and number of copies of manifests] are incorporated by reference.

19. The Department has **not** adopted the federal exemption from manifesting requirements in 40 CFR 262.20(e) that allows certain waste, reclaimed under certain contractual agreements.

6 TRANSPORTERS

6.1 Applicability:

These rules shall apply to all transporters of hazardous waste and septage, except for:

- A. On-site transportation of hazardous waste, per 40 CFR 263.10(b), and on-site transportation of used oil or septage.
- B. Transportation during an explosives or munitions emergency response per 263.10(e).

6.2 Permit Requirements:

- A. No person shall transport any hazardous wastes, used oil or septage, but not including precious metal bearing wastes, in or on the land or waters of the state unless such person shall first have obtained a Hazardous Waste, used oil, or Septage Transporter Permit or temporary permit (as applicable) from the Director. However, this rule shall not apply to the following activities:
 - 1. The transportation of sewage sludge being produced at publicly owned or privately owned treatment plants, except where the sludge fails EPA's characteristics for hazardous waste as defined in Subpart C of 40 CFR 261.
 - 2. The use of non-permitted vehicles to collect and transport hazardous waste or used oil in emergency situations that present a threat to public health and safety. In the event of an emergency situation, the Department shall be immediately notified of each vehicle used for the cleanup and transportation of hazardous waste. After the notification, all collected hazardous waste or used oil shall be managed in accordance with the Department's rules and regulations.
 - 3. The transportation of animal waste produced at farms.
 - 4. A transporter that transports household refuse, unless he has cause to believe that the household refuse contains hazardous waste.
 - 5. The use of non-permitted vehicles to transport less than one liter of hazardous waste derived solely as a by-product of sampling activities.
 - 6. The use of non-permitted vehicles to transport hazardous waste for situations that satisfy 40 CFR 262.20(f).
 - 7. The transportation of any hazardous waste defined as a universal waste, per Rule 3, and being managed as a universal waste.
 - 8. The transportation of waste military munitions (as defined in 40 CFR 266.201 and 266.202) that satisfy the conditions of 40 CFR 266.203.
 - 9. The transportation of 55 gallons or less of for PCB contaminated waste that does not otherwise meet the definition of hazardous waste, generated at a field service location by a public utility to a generator-owned location that has an existing US EPA Identification Number for the generation of hazardous waste.

10. Self-transport of hazardous waste generated by a Conditionally Exempt Small Quantity Generator to a facility authorized to accept such waste.
- B. For transporter permits, an application fee of \$100.00 per transportation unit shall be paid by the hazardous waste, used oil or septage transporter. An application fee of \$50 per transportation unit shall be paid by a transporter of septage that is generated in marine vessels. For transporter temporary permits, an application fee of \$25 per transportation unit shall be paid by the hazardous waste, used oil or septage transporter.
- C. The hazardous waste, used oil or septage transporter's permit will be issued for a period not to exceed one year.
- D. The hazardous waste, used oil or septage transporter's temporary permit will be issued for a period not to exceed thirty-one days.
- E. The permit or temporary permit will be granted or renewed only for those hazardous waste, used oil or septage transportation units that are listed on the permit application and that pass self inspection. A permit decal, or temporary permit decal, as appropriate, will be issued for each transportation unit that passes the inspection. This decal is not transferable to any other transportation units. The transporter shall maintain his permitted transportation units in compliance with inspection requirements, per [Rule 6.8](#), at all times. The Department reserves all rights to conduct inspections by Department personnel to verify and ensure compliance with regulatory requirements.
- F. A permitted hazardous waste transporter may also transport shipments of used oil in accordance with the requirements of Regulation 15.

6.3 Permit Application Requirements:

- A. Applications for a transporter permit or temporary permit shall be submitted to the Director on forms provided by the Department and accompanied by the appropriate permitting fee (as specified in [Rule 6.2](#)) per transportation unit identified on the permit application. All transportation units used in the transportation of hazardous waste, used oil or septage shall be included on the permit application.
- B. All transporter applications shall include the following:
 1. Name of applicant.
 2. Mailing address.
 3. EPA I.D. No. (hazardous waste and used oil transporters only).
 4. Business phone number.
 5. Name of the owner.
 6. The name, address and phone number of the applicant's personnel who can be reached in case of an emergency.
 7. Year, make, VIN, and registration number of each transportation unit being permitted to transport hazardous waste, used oil or septage.

8. Locations to be used for the temporary storage (up to 72 hours) of hazardous waste in transportation units.
9. For hazardous waste transporters only, a criminal background check shall be submitted by the applicant consistent with R.I.G.L. 23-19.1-10 (e). Each criminal background check shall be accompanied by a notarized affidavit from the applicant attesting to the veracity of the criminal background check.

C. The hazardous waste or used oil transporter shall maintain liability insurance, including the hazardous materials rider (MCS 90) as specified in 49 CFR 387.7 (d), sufficient to provide coverage of \$1,000,000.00 (one million dollars) per incident. However, transporters engaged exclusively in the transportation of septage need maintain liability insurance only sufficient to provide coverage of \$300,000.00 (three hundred thousand dollars) per incident.

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D. The hazardous waste transporter shall apply for and obtain an EPA I.D. No. Hazardous waste transporters, covered by the federal system shall apply directly to the Regional Office of the Environmental Protection Agency. Hazardous waste transporters not covered under the federal system shall apply for an EPA I.D. No. through the Department.

6.4 General Requirements:

- A. It shall be the responsibility of the hazardous waste transporter to obtain all other required licenses and permits from other state and federal agencies prior to transporting any hazardous waste.
- B. The transporter is prohibited from transporting extremely hazardous waste (waste bearing the code R006 under item 13 of the Manifest), on the following roads:

**TABLE 1: LIST OF PROHIBITED TRAVEL ROADS FOR
EXTREMELY HAZARDOUS WASTE**

| Town(s) | Road | From | To |
|---------------------------------|-----------------------------|--|----------------------------------|
| Scituate, Johnston and Foster | Route 6 | Route 94 Foster | Hopkins Ave. Johnston |
| Scituate and Smithfield | Route 116 | Scituate Ave. Scituate | Snake Hill Road Smithfield |
| Scituate and Cranston | Route 12 | Route 14 Scituate | Route 116 Scituate |
| Scituate | Route 14 | Route 102 | Route 116 |
| Scituate and Foster | Route 102 | Route 94 Foster | Snake Hill Road Glocester |
| Scituate and Foster | Central Pike | Route 94 Foster | Route 102 Scituate |
| Scituate | Danielson Pike | Route 6 | Route 6 |
| Scituate | Rocky Hill and Peeproad Rd. | Route 101 | Route 116 or Sawmill Road |
| Foster, Glocester and Scituate | Route 101 | Route 94 Foster | Route 6 Scituate |
| Smithfield and North Smithfield | Reservoir Road | In its entirety | |
| Smithfield and Lincoln | Route 295 | Douglas Pike (Exit 8 of Rt. 295) Lincoln | Route 146 (Exit 9 of Rt. 295) |
| Warren | School House Road | Birch Swamp Road | Long Lane |
| Warren | Serpentine Road | In its entirety | |
| Jamestown | North Main Road | Route 138 | East Shore Road |
| Newport and Middletown | Bliss Mine Road | In its entirety | |
| Middletown | Miantonomi Avenue | Bliss Mine Road | Valley Road |
| Middletown | Valley Road | Miantonomi Road | Route 138 |
| Foster | Route 94 | Route 101 | Route 102 Scituate |
| Foster and Scituate | Old Plainfield Pike | Route 102 | Route 12 Scituate |
| Middletown | Aquidneck Avenue | Wave Avenue | Valley Road |
| Middletown | Wave Avenue | In its entirety | |
| Little Compton and Tiverton | Route 77 | Peckham Road Little Compton | Route 179 Tiverton |
| Tiverton | Neck Road | In its entirety | |
| Little Compton | Peckham Road | Route 77 | Burchard Road |
| Little Compton | Burchard Road | In its entirety | |
| Cumberland | Reservoir Road | Route 114 | Massachusetts Line |
| Cumberland | Route 120 | Mendon Road | Massachusetts Line |

- C. The roads on which the transportation of extremely hazardous waste is prohibited as listed in Regulation [6.4 \(B\)](#) shall be posted conspicuously in the cab of each vehicle registered to the permittee.
- D. Extremely hazardous waste that is generated on roads on which the transportation of extremely hazardous waste is prohibited may be transported on these roads with prior permission of the Director.
- E. In the event of a spill of hazardous waste by the transporter, he shall notify the Department immediately of the spill. In all cases of spills, the transporter shall immediately take steps to contain and clean up the hazardous waste.
- F. The transporter shall submit to the Department as part of the application the following:
 - 1. A description of the procedures that shall be employed by the transporter, pursuant to [Rule 6.9](#), in responding to spills or other emergency situations that could arise during transporters' operations. Specific references shall be made to:
 - (a) the training or instruction that the hazardous waste transporter personnel shall receive,
 - (b) the emergency and safety equipment required to be on the transportation unit at all times, and
 - (c) the arrangements for emergency services.
 - 2. A description of the absorbent material to be used for the cleanup of liquids.
- G. The transporter of hazardous wastes that are received in Rhode Island or that are destined for delivery to hazardous waste management facilities within Rhode Island shall not accept these wastes unless the containers of these wastes are labeled in accordance with Rule 5.
- H. The transporting vehicle shall be marked on both sides and the back with the name and permit number of the transporter. These markings shall be painted on the vehicle in permanent contrasting colors and shall be visible and legible from a distance of 50 feet (marking size shall be no less than three inches in height). The official waste transporter decal(s) provided by the Department shall be kept clean and legible.
- I. Transporters of hazardous wastes into the United States or who mix wastes of different USDOT descriptions into a single container shall comply with all generator rules and regulations.
- J. Hazardous waste transporters who deliver hazardous wastes to other hazardous waste transporters shall comply with the provisions of 40 CFR 263.20 (d).
- K. Transporters of hazardous wastes to foreign countries shall comply with 40 CFR 263.20 (g).

- L. These rules and regulations as applied to transporters of hazardous waste by water (bulk shipment) are modified by 40 CFR 263.20 (e) and 40 CFR 263.22 (b).
- M. These rules and regulations as applied to transporters of hazardous wastes by rail are modified by 40 CFR 263.20 (f) and 40 CFR 263.22 (c).
- N. Transporters hauling septage shall maintain records indicating the source and estimated volume of septage picked up, the date of shipment, and the receiving publicly owned treatment works (POTW). All septage shall be delivered to a properly licensed POTW for disposal, unless the Department has given written permission for an alternate method of disposal.

6.5 **Manifest Handling:**

- A. The transporter of hazardous waste shall not accept any hazardous waste, except ~~septage or used oil, unless the generator section of the Manifest has been completed by the generator.~~ Deleted: sanitary
- B. The hazardous waste transporter shall inspect the waste before accepting the waste to ensure the following:
 1. The number of containers matches the number indicated in the generator section of the Manifest.
 2. All containers are labeled as required by Rule 5.
 3. The total quantity of waste, as can be best estimated, matches the quantity indicated in the generator section of the Manifest.
 4. That all containers appear sound, free of leaks and for containers of liquid, that they are liquid tight.
- C. The hazardous waste transporter shall complete the transporter's section of the Manifest, sign the Manifest, and leave the manifest copy referenced in the [Rule 5.18](#) (Waste Shipment).
- D. The hazardous waste transporter shall keep the completed Manifest, minus the copy given to the generator, with the hazardous waste until received by the consignee.
- E. The hazardous waste transporter will, upon receipt of the hazardous waste by the consignee, remove the transporter copy for his records and turn over the remaining copies to the consignee.
- F. Copy 5 of the Manifest shall be kept by the hazardous waste transporter for a period of three years from the date of the receipt of that waste.
- G. The hazardous waste transporter shall submit to the Director the names and signatures of all company personnel who are allowed to sign Manifests.
- H. The hazardous waste transporter shall deliver the hazardous waste only to the facility designated on the Manifest. If this is not possible, he/she shall contact the generator for further instructions and revise the Manifest in accordance with the generator's instructions.
- I. The hazardous waste transporter will obtain the date and signature of the facility operator at the time of transfer of the waste to the facility.

J. 40 CFR 263.20(h) does not apply to hazardous waste transporters.

6.6 Record Keeping:

The hazardous waste or septage transporter shall keep all pertinent records relating to the transportation of hazardous waste or septage for a period of three years after the waste has been delivered to a designated facility, or for such longer periods as is required in an unresolved enforcement action.

6.7 Personnel, Equipment:

- A. The transporter of hazardous waste shall provide adequate personnel to ensure the activities conducted are in compliance with all applicable laws and regulations.
- B. The hazardous waste transporter shall make provisions to prevent personnel from wearing clothing that is contaminated with hazardous waste.
- C. The hazardous waste transporter shall have all equipment necessary for transporting the hazardous waste in accordance with these rules and this equipment shall be on the transportation unit, available to the driver, at all times. All equipment shall be maintained in such a manner that it shall be fit for the purposes for which it was intended by the manufacturer.

6.8 Inspections:

- A. The transporter shall have each transportation unit listed on the application self inspected annually prior to the receipt or renewal of the permit.
- B. The inspection shall include but not be limited to inspection of:
 - 1. Confirmation of United States Department of Transportation (USDOT) Motor Carrier Safety Regulation vehicle inspection requirements per 49 CFR 396.17 and Appendix G of Subchapter B.
 - 2. Proper identification of the transporter clearly painted on the transportation unit, including permit number.
 - 3. Proper vehicle registration(s).
 - 4. Soundness of containment structure (tank, roll-off box trailer, etc.).
 - 5. Ability of tank or other liquid containers and any valves, hoses, pipes, etc., to hold liquids without leaking.
 - 6. Prohibited roads posted (hazardous waste transporters only).
 - 7. Emergency procedure posted.
 - 8. Communication.
 - 9. Protective clothing.
 - 10. Eyewash (at least one pint).
 - 11. First-aid supplies.
 - 12. Absorbent material.
 - 13. Confirmation of USDOT tanker retesting and inspection (if applicable), as required by 49 CFR 180.352.

14. Fire Extinguisher
15. Shovel

C. The transporter shall maintain all transportation units used in transportation of hazardous waste or septage, and listed on the application, to insure continual compliance with all of the requirements of these rules and regulations.

6.9 Safety, Accidents

- A. Hazardous waste transporters shall be equipped with such safety equipment as to minimize chance of fire and explosion and to protect the health and safety of personnel associated with the transportation of hazardous waste and any other person who might come into contact with the waste.
- B. The transporter shall have safety equipment available for use during spills, fires and other emergencies, including a suitable means of communication for summoning aid in an emergency. The transporter shall have and maintain, but not be limited to, the following safety equipment:
1. Protective clothing and equipment to enable personnel associated with the transportation to work safely with the wastes that are accepted by the transporter.
 2. One eyewash apparatus (at least one pint) per vehicle that is readily available in case of emergency.
 3. First-aid supplies that are readily available in case of emergency.
 4. Absorbent Material.
 5. Fire Extinguisher.
 6. Shovel.
- C. The transporter shall make provisions for prompt control of fires, spills and other emergencies.
- D. The transporter shall prepare procedures for personnel to follow in the case of spills of hazardous waste or septage and in the case of fire and other emergencies. The transporter shall post these procedures in a conspicuous place in their transportation unit. In addition, the hazardous waste transporter shall train and instruct personnel associated with the transportation of hazardous waste in these procedures. The hazardous waste transporter shall maintain records of the training and instruction programs that are held.
- E. The transporter shall collect hazardous waste or septage that is accidentally discharged from a designated hazardous waste or septage vehicle. The transporter shall collect soil contaminated by such discharge. Such collection shall be as rapid and thorough as possible. The hazardous waste transporter shall handle and dispose of such waste and soil in compliance with these rules and regulations.
- F. The transporter shall report immediately to the Rhode Island Department of Environmental Management all accidental discharges/spills of hazardous wastes

or septage or any other incident or accident that results or could result in a hazard to the public health and safety, or to the environment within the State of Rhode Island. The hazardous waste transporter shall also comply with the notification procedures and incident reports required by 49 CFR 171.15 and 171.16 regarding accidental discharge or spillage of hazardous materials or wastes. The Director may require that a written report of the incident or accident be provided to him.

6.10 Decontamination:

Equipment used to handle hazardous waste; including, but not limited to, storage containers, processing equipment, trucks and loaders that are contaminated with hazardous waste; shall be decontaminated prior to being serviced or used for transportation of non-hazardous waste if servicing or use of contaminated equipment would cause a hazard to any person. Contaminated wash water, waste solutions or residues generated from washing or decontaminating the equipment shall be collected and disposed of as hazardous wastes in compliance with these rules.

6.11 Containerization of Hazardous Waste:

The transporter of hazardous waste shall not handle containerized hazardous waste unless the containers are constructed and maintained in accordance with the requirements of Code of Federal Regulations, Title 49, Transportation, Part 178.

6.12 Powder, Dust, Fine Solids:

To prevent hazardous waste from being blown by the wind, hazardous waste in the form of powder, dust or a fine solid shall be handled, stored and disposed of in covered containers.

6.13 Gases, Mists, Vapors:

Hazardous wastes that are capable of releasing hazardous gases, mists or vapors in excess of existing air quality standards or where the emitted hazardous materials could result in a hazard to public health and safety or the environment shall be handled in covered containers.

6.14 Spill Control Equipment:

The hazardous waste transporter, when transporting liquid hazardous waste in containers, shall have absorbent mats or materials on the vehicles capable of absorbing ten percent of the hazardous wastes in the event of a leak or spill. When transporting liquid hazardous waste in tank trucks, the hazardous waste transporter shall have a shovel and absorbent mats or materials on the vehicle capable of absorbing small leaks as may occur when hoses are disconnected.

6.15 Temporary Storage of Waste by Transporters:

The following standards apply to transporters that temporarily store wastes in their vehicles. For standards for temporary transfer and storage facilities, see [Rule 9](#).

- A. A permitted transporter of hazardous waste may store such waste in their vehicle at their business location, without the business having a Hazardous Waste Temporary Transfer and Storage Facility Letter of Authorization, for up to and not exceeding seventy-two (72) hours, excluding Sundays and federal and Rhode Island legal holidays, provided the following conditions are met:
 - 1. No waste is loaded onto or unloaded from the vehicle, even for the purpose of consolidation of loads.
 - 2. The site and vehicle are secured to prevent unauthorized access.
- B. Temporary storage of hazardous waste or used oil in the transporting vehicle at the location of a breakdown of the vehicle will only be allowed if the transporter notifies the Department of the location of the vehicle and the estimated time for repairs.
- C. Transporters that operate Temporary Transfer and Storage Facilities shall comply with the requirements outlined in [Rule 9](#).

6.16 Inspection; Right of Entry:

- A. Pursuant to Title 23, Chapter 19.1, Section 12, "Inspections; Right of Entry", of the General Laws of Rhode Island, 2001 Reenactment, as amended, the Director may:
 - 1. enter any hazardous waste management facility, or any place that the Director has reason to believe hazardous wastes are generated, stored, treated, or disposed of;
 - 2. inspect vehicles that the Director has reasonable grounds to believe are being used for the transportation of hazardous wastes;
 - 3. inspect and obtain samples of any waste or other substance, labels, containers of waste or other substance, or samples from any portion of the facility and from any vehicle in which hazardous wastes are transported or in which the Director has reason to believe hazardous wastes are transported;
 - 4. inspect and copy records, reports, information, or test results kept or maintained at a hazardous waste management facility.

- B. As per R.I.G.L. 23-19.1-12 any person obstructing or hindering, or in any way causing to be obstructed or hindered, the Director from the performance of his duties, or who shall refuse to permit the Director entrance to any premises, building, vehicle, plant or equipment, in the performance of his duties, shall be guilty of a misdemeanor and fined not more than five hundred dollars (\$500.00).

6.17 Hazardous Waste Generation Fee:

- A. The hazardous waste transporter shall collect a fee for hazardous waste that is generated in Rhode Island.
- B. The collected fee shall be in the amount of 2.3 cents per pound or 19 cents per gallon. The fee shall be paid for all eligible waste accepted for transportation within a quarter and is due no later than thirty (30) days after the end of the quarter. The fee shall be paid in the form of a check made payable to “Rhode Island General Treasurer” and shall be included with the quarterly transporter report as described in [Rule 6.18](#) (Reporting Requirements). The fees shall be collected and deposited in the Department’s Emergency Response Fund.
- C. Non-hazardous Waste and waste bearing Rhode Island Fee Exemption Waste Codes (R011-R016) as defined in Rule 3 are exempted from the fee.

6.18 Reporting requirements:

The hazardous waste transporter shall submit quarterly reports for all waste that is picked up from generators in Rhode Island using a Manifest. The report shall be prepared in accordance with the Department’s standard for quarterly reports. Each report shall contain the required data elements for all wastes accepted for transportation within that quarter and is due no later than thirty (30) days after the end of the quarter. If no waste is accepted during the quarter, the hazardous waste transporter shall notify the Department in writing that no eligible waste was transported in that period of time.

6.19 Evaluation of the Fees and Report:

Each year the Department shall produce a written report of its evaluation of total fees collected during the past fiscal year (beginning July 1 and ending June 30). The Department shall produce the written evaluation within ninety (90) days of the close of the fiscal year and make the evaluation available to the public. The Department shall accept written comments on the report for a period of ninety (90) days following its release. After the close of the ninety (90) day comment period the Department will conduct a meeting to discuss the written comments that are received.

7 ISSUANCE, RENEWAL AND CONDITIONS OF FACILITY PERMITS

A. **Applicability:** This rule shall apply to treatment, storage and disposal facilities. This rule does not apply to:

1. facilities that operate in accordance with the [Rule 9](#) as temporary transfer and storage facilities.
2. generators doing exempt treatment (evaporation units, totally enclosed treatment, emergency treatment) as described in Rule 5.2D.
3. generators performing corrective action in accordance with [Rule 16](#).
4. generators treating wastewater in wastewater treatment units described in Rule 7(B)(8).

B. **Incorporation of 40 CFR Part 270 Federal Regulations regarding Treatment, Storage and Disposal Facilities**

40 CFR Part 270 is incorporated by reference in its entirety except as provided below and except as provided in [Rule 16](#) “Corrective Action” and except as otherwise noted in these Rhode Island Hazardous Waste Regulations:

1. In 270.1(b) introduction, revise the third sentence to read “ Treatment, storage, and disposal facilities (TSDs) are subject to permitting under RCRA.”
2. In the first sentence of 270.1(c), delete “in 40 CFR part 261” and substitute “in these Rhode Island Hazardous Waste Regulations”. In the second sentence of 270.1(c), delete “in § 270.2” and substitute “in these Rhode Island Hazardous Waste Regulations.” Also, add after the second sentence “No person shall construct, substantially alter, or operate any hazardous waste management facility, nor shall any person store, treat or dispose of any hazardous waste, except as exempted by these Rhode Island Hazardous Waste Regulations, without first obtaining a permit from the Director for the facility or activity.”
3. In 270.1(c) replace the sentence “Owners and operators of hazardous waste management units shall have permits during the active life (including the closure period) of the unit.” with “ Owners and operators of hazardous waste management units and all persons who shall construct, substantially alter, or operate hazardous waste treatment, storage or disposal facilities or who shall treat, store or dispose of hazardous waste (except as exempted by these regulations) shall first obtain operating permits from the Director for such activities and shall have permits during the active life (including the closure period) of the units or facilities.”

4. Delete 270.1(c)(1)(iii), 270.1(c)(2)(ii), and 270.1(c)(2)(ix). These exemptions do not apply in Rhode Island. In 270.1(c)(2)(iii), delete “40 CFR 261.4 and substitute “those parts of 40 CFR 261.4 adopted by Rhode Island.” In 270.1(c)(2)(vi), replace “ten days” with “seventy-two hours.” Also, add to the end of the provision: “Temporary Transfer and Storage Facilities shall meet the requirements specified in [Rule 9](#) of these Rhode Island Hazardous Waste Regulations”
5. In 270.1(c)(2) add a sub-paragraph “(x) Owners and operators of facilities that accept, treat, and/or store only precious metal bearing waste and do not speculatively accumulate such waste [as defined in 40 CFR 261.1(c)]. These facilities are subject to the requirements of 40 CFR 266 Subpart F.”
6. Delete existing language in 270.1(c)(2)(i) and replace with “Generators who accumulate hazardous waste on-site in accordance with [Hazardous Waste Storage](#) Requirements of Rule 5 and in accordance with 40 CFR 262.34.
7. In 270.1(c)(2)(iii) add at the end of the paragraph the wording “With respect to the 261.4 reference, the scrap metal exclusion of 261.4(a)(13) and the conditional exclusion in 261.4(a)(14) do not apply for circuit boards that are components of those electronic devices as defined by the term “used electronic device” in Rule 3.”
8. In 270.1(c)(2)(v) delete existing language and replace with the following: “The owners or operators of elementary neutralization units as defined in 40 C.F.R. § 260.10. Also, the owners and operators of wastewater treatment units provided that all of the following conditions are met for each unit:
 - (a)the unit receives and treats or stores an influent wastewater that is a hazardous waste as defined in these Rhode Island Hazardous Waste Regulations or generates and accumulates a wastewater treatment sludge that is a hazardous waste as defined these Rhode Island Hazardous Waste Regulations or treats or stores a wastewater treatment sludge that is a hazardous waste as defined in these Rhode Island Hazardous Waste Regulations
 - (b)the unit is being used to legitimately treat only wastewater, as defined at 47 Fed. Reg. 4706 (Feb. 2, 1982) (note: Concentrated hazardous wastes are not covered by this exemption. The disposal of concentrated hazardous waste down the drain is prohibited.)
 - (c)the unit is a tank or tank system as defined in 40 C.F.R. § 260.10 (e.g., wastewaters when stored or transported in containers are not covered by the exemption),
 - (d)the unit has a current ongoing discharge to surface waters or the sewers that is on-site and is subject to regulation under Section 402 or 307(b) of the Federal Clean Water Act and Section 46-12-5 of the General Laws of Rhode Island, as amended (e.g., zero discharge units such as evaporators are not covered by this exemption).

(e)the unit has been specifically described in a water permit application (e.g., in a schematic diagram) and specifically referenced in a water permit as being part of the facilities subject to regulation under the Federal Clean Water Act and Section 46-12-5 of the General Laws of Rhode Island (e.g., tanks used to store hazardous wastewaters or sludges not covered by a water permit application and permit are not covered by this exemption). Provided that any sludge or other waste materials generated from an elementary neutralization unit or a wastewater treatment unit shall be managed as a hazardous waste if such sludge or waste material meets the criteria of a hazardous waste. The full Hazardous Waste Regulations apply to such sludge or other waste material when it leaves the exempted elementary neutralization unit or exempted wastewater treatment unit, e.g., when a sludge is stored in containers on-site. For zero discharge units, the hazardous waste requirements apply both to any hazardous wastewaters and to any hazardous sludges, when either is generated.”

9. In 270.1(c)(2)(viii)(C) delete the word “and”.
10. Add 270.1(c)(2)(viii)(E): “Used electronics as described in [Rule 13.2](#).”
11. Add 270.1(c)(2)(viii)(F): “Silver-containing photo fixing solutions as described in [Rule 13.3](#).”
12. Add as 270.1(c)(2)(xi): “The re-use, recycling, or reclamation of hazardous waste when exempted from permitting by 40 CFR 261.6 as incorporated by reference with limitations in the “Hazardous Waste” definition in Rule 3 of these the Rhode Island Hazardous Waste Regulations”
13. Add as 270.1(d): “Additional Permit restrictions for landfills and/or incinerators. In addition to the other requirements incorporated by the Rhode Island Hazardous Waste Regulations:
 - (a)Operating permits will be granted only for those incinerator or landfill facilities that the applicant can show, by a preponderance of evidence, will be located, designed, constructed and operated so as to prevent all of the following:
 - (i) Endangerment of an underground drinking water source beyond the facility boundary.
 - (ii) Endangerment of an aquifer that has been designated by any federal or Rhode Island state agency as a sole source aquifer.
 - (iii) Contamination of soil, groundwater, or surface water by discharge by any surface or sub-surface means causing a violation of any rule or regulation or standard of any federal or Rhode Island agency.
 - (b)Operating permits will not be granted for incinerator and/or landfill facilities which are to be located or are located in a one hundred year flood plain, a wetland, the direct recharge area of an existing or planned

surface or groundwater community water system, the direct recharge area of a sole source aquifer or a coastal high hazard area, an active fault area or critical habitat.

(c) Operating permits will be granted only for those incinerator and/or landfill facilities for which an easement is granted to the state of Rhode Island. This easement shall be recorded in the land evidence records in the city or town where the land is located, shall describe the entire facility, and have as its purposes the identification of the facility and its use as a hazardous waste disposal and/or treatment facility and the allowance of access to the property by the Director for the purpose of inspection, testing and investigations relating to protection of public health and the environment.”

14. In 270.2 delete the definition of “Existing hazardous waste management (HWM) facility or existing facility” and replace with: “Existing hazardous waste management (HWM) facility or existing facility means a hazardous waste management facility that is in operation on or before November 19, 1980.”
15. In 270.2 delete the definition of “New hazardous waste management (HWM) facility or new facility” and replace with: “New hazardous waste management (HWM) facility or new facility means a hazardous waste management facility that began operation after November 19, 1980.”
16. In 270.2 “Permit” definition, delete the words “and standardized permit (subpart J of this Part)”.
17. In 270.2 delete the “Standardized permit” definition.
18. Delete 270.10(a)(5) and (a)(6).
19. Add as 270.10(c)(1): “The combined application and permit fee shall be twenty-five thousand dollars (\$25,000) for the issuance of a new permit and ten thousand dollars (\$10,000) for the renewal of a permit. Additional charges, if any, shall be determined by R.I.G.L. 23-19.1-14, as in effect at the time.”
20. Delete 270.10(e)(1)(iii).
21. In 270.10(f)(1) and 270.10(f)(2), delete the wording “Except as provided in paragraph (f)(3) of this section,” and delete 270.10(f)(3).
22. Delete 270.10(h)(2).
23. Delete the contents of 270.10(l). Rhode Island has not adopted the exemption addressed by that federal provision. Instead, add as 270.10(l) the following Rhode Island provision regarding inspections: “Inspections
 - (a) The Department shall make or cause to be made such inspections, take such tests and samples and make such investigations as it deems necessary at an applicant’s facility.
 - (b) The Department or other designated authorized personnel shall conduct inspections and shall have the right to enter without prior notice to

inspect any hazardous waste management facility or proposed hazardous waste management facility for which an application has been received. Any application shall constitute permission for and willingness to comply with inspections, tests and investigations by the Director or his agents.

(c)The Department shall be afforded reasonable opportunity by the applicant to view the facility, examine records, obtain such required information as may be needed for inspection, testing and investigation, including the monitoring of any substances, and requiring the submission of reports. Refusal to allow reasonable inspections, tests or investigations or to submit reports shall constitute valid grounds for denial of a permit.”

24. In 270.13(j) replace the words “listed or designated under 40 CFR part 261” with the words “, as defined in Rule 3 of the Rhode Island Hazardous Waste Regulations, ” and replace the words “such wastes” with the words “each of such wastes” for all instances.
25. In 270.13(l) add, after the last sentence, “The facility, at minimum, shall be outlined on a copy of the latest USGS Topographical Map.”
26. In 270.13 add a subparagraph “(o) For privately owned facilities, a list of the direct and indirect owners of the facility whether individual, partnership or corporation. For corporate owned facilities, include all officers, directors, and other persons owning ten percent (10%) or more of the corporate stock. ”
27. In 270.13 add a sub-paragraph “(p) A list of all owners of property, including addresses, within 500 feet of the perimeter of the facility.”
28. In 270.13 add a sub-paragraph, “(q) All plans, drawings, and maps shall be stamped by a professional engineer or land surveyor, as appropriate, registered with the State of Rhode Island. All plans, drawings, and maps shall be scaled to fit a standard 24 x 36 inch sheet wherever possible and shall be submitted in duplicate.”
29. In 270.13 add a sub-paragraph, “(r) The EPA Identification Number (I.D. No.) for both facilities covered by the federal I.D. number system and facilities not covered under the federal I.D. number system, shall be obtained from the Department.”
30. In 270.14(b)(4) delete “, or a justification demonstrating the reasons for requesting a waiver of this requirement”.
31. In 270.14(b)(5) delete “264.1033, 264.1052, 264.1053, 264.1058, 264.1084, 264.1085, 265.1086, and 264.1088”.
32. Replace 270.14(b)(6) with “(6) A description of the preparedness and prevention plan, as required by 40 CFR 264 Subpart C.”
33. In 270.14(b)(7) delete “, and 264.200”. Rhode Island is not authorized to

administer the referenced regulations under 40 CFR part 264, subparts AA, BB and CC (RCRA air emissions regulations). Rather, the EPA directly administers the subparts AA, BB and CC regulations in Rhode Island.”

34. Delete 270.14(b)(11)(i and ii), 270.230(d)(4), and 270.14(b)(18) (not applicable in Rhode Island).
35. In the 270.14(b)(19) introduction, replace the words “61.0 meters (200) feet” with the words “30.5 meters (100) feet” and prior to the phrase “The map shall clearly show the following:”, add the sentence “The contour interval shall also be sufficient to show patterns of surface drainage within 1000 feet of the perimeter of the facility.”
36. In each of 270.14(b)(19)(ii), (iv), and (xi) add the sentence, “ Include all within 1000 feet of the perimeter of the facility.” Revise 270.14(b)(19)(iii) to read “ Surface waters including intermittent streams, water courses, and watersheds of public surface water supplies; all within 1000 feet of the perimeter of the facility.”
37. In 270.14(b)(19)(vii) add the phrase, “Also, all property lines within 500 feet of the perimeter of the facility.”
38. Revise 270.14(b)(19)(ix) to read, “On-site wells and off-site public and private drinking water supply wells, within 1000 feet of the perimeter of the facility.”
39. In 270.14(b)(19) add a sub-paragraph, “(xiii) All water lines within 500 feet of the perimeter of the facility.”
40. In 270.14(b) add a sub-paragraph, “(23) For facilities that are not regulated units as defined in 264.90(a)(2), a groundwater monitoring plan capable of determining the facility’s impact on the groundwater in the uppermost aquifer underlying the facility. This plan shall supply information equivalent to that required by 40 CFR 264.90-100 for regulated units. The Director may waive this requirement upon written request of the operator where documented and demonstrated evidence is provided that any leakage or spillage of hazardous waste to the ground will be minimized to the greatest extent possible.”
41. In 270.14(b) add a sub-paragraph, “(24) A description of the manifest handling procedures of the facility.”
42. In 270.14 add a sub-paragraph, “ (e) All plans, drawings, and maps shall be stamped by a professional engineer or land surveyor, as appropriate, registered with the State of Rhode Island. All plans, drawings, and maps shall be scaled to fit a standard 24 x 36 inch sheet wherever possible and shall be submitted in duplicate.”
43. Delete 270.15(e), 270.16(k), 270.17(j), 270.24, 270.25, and 270.27. Rhode Island is not authorized to administer the referenced regulations under 40 CFR part 264, subparts AA, BB and CC (RCRA air emissions regulations). Rather, the EPA directly administers the subparts AA, BB and CC regulations in Rhode

Island.”

44. In 270.15 add a new sub-paragraph, “(e) Where ignitable or reactive wastes are stored, a description of procedures used to ensure compliance with 40 CFR 264.176.”
45. Delete 270.22. Rhode Island has not adopted the requirements for boilers and industrial furnaces to which this provision relates. Rather, the EPA directly administers these requirements in Rhode Island.
46. Add the following as the new first paragraph of 270.30 (to precede the existing 40 CFR 270.30 introductory paragraph): “ The permit shall apply only to the facility in operation at the time the permit is issued. Separate permits shall be required for facilities that are located in separate geographic areas even though they are under the same management. Separate permits may be issued for distinct parts of a facility that can be identified as separate units.”
47. Add at the end of 270.30(a) “Whenever the Department determines that a permitted hazardous waste facility is not in compliance with all of the appropriate rules and regulations established by the Department, or that the permitted facility is not being operated in conformance with approved plans or permit conditions, it may order the permittee to take whatever corrective action is needed to secure compliance with the rules and regulations established by the Department.”
48. In 270.30(g) add the sentence “Any permit issued hereunder shall be the property of the State and loaned to a permittee and shall be maintained on the facility and kept visible.”
49. In 270.30(h) replace “records” with “records and reports”
50. In 270.30(i)(1), after the word “times”, add “, without prior notice,”
51. Add as 270.30(i)(5): “Perform tests and inspections as the Department deems necessary to determine compliance with permit.”
52. At the start of 270.30(l)(3), after the word “Transfers,.” add the sentence: “Prior to a change in ownership of the facility or legal entity operating the facility or location or discontinuance of services, the Director shall be notified.” Also, in 270.30(l)(3) in the second sentence after the word “Director” replace the word “may” with “shall”.
53. Add 270.30(n) “Inspection reports and correction of deficiencies
 - (a) Hazardous waste facilities may be given prompt notice by the Department of deficiencies discovered as a result of an inspection, test or investigation.
 - (b) The permittee, upon notification, shall be responsible to take immediate steps to correct any adverse impact on the environment resulting from non-compliance and shall not have a defense in any legal action that it

would have been necessary to halt or reduce operations in order to achieve compliance.”

54. In 270.31 title replace “Requirements for recording and reporting of monitoring results” with “Permit Specifications”
55. Add as 270.31(d): “All reporting requirements of operational activities.”
56. Add as 270.31(e): “The name and location of the facility.”
57. Add as 270.31(f): “A complete description of the operations at the facility requiring a permit with particular attention paid to any operational limitations and design capacity.”
58. Add as 270.31(g): “A complete description of the hazardous wastes stored and/or treated and/or disposed of at the facility.”
59. Add as 270.33(a)(1)(i): “New facilities shall be in compliance with the Rhode Island Hazardous Waste Regulations prior to receiving an operating permit. Existing facilities may receive a permit prior to compliance with the Rhode Island Hazardous Waste Regulations only in those instances where a compliance schedule is an integral part of the permit.”
60. In 270.40(b) delete from the first sentence “or as a routine change with prior approval under 40 CFR 124.213.” Also, add after the third sentence (after the word “Director.”): “The new entity, prior to commencing as owner or operator of the facility, shall also submit to the Director information indicating its technical ability to safely operate the facility, its financial ability to maintain such facility, and any additional information the Director may request. After a review of this information, the Director shall either approve or disapprove the transfer of the permit.” Also, add just prior to the fourth sentence (before the word “When”): “If the Director approves of the transfer of the permit, the original permittee shall remain fully liable under the terms of the permit and under the requirements of the Rhode Island Hazardous Waste Regulations until the Director has transferred the operating permit to the new owner or operator.”
61. Change title of 270.41 to “Modification or revocation and reissuance or suspension of permits.”
62. In 270.41(a)(2) add as a new ending sentence “This shall include any information indicating the cumulative effects on the environment are unacceptable.”
63. Delete 270.41(b)(3).
64. Add 270.41(d): “Causes for suspension. The following is cause to suspend a permit: Cause exists for termination under §270.43 and the Director determines that suspension is appropriate.
65. Revise 270.43(a)(2) to read “ The permittee’s failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee’s misrepresentation of any relevant facts at any time, or that there had

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been a conviction or plea, relative to a crime committed, as set forth in RIGL 23-19.1-10(p) and (d-f); or”.

66. Add as 270.43(a)(4): “Refusal to allow reasonable inspections, tests or investigations or to submit reports shall constitute valid grounds for denial or revocation of a permit”.
67. Add as 270.43(a)(5): “the permittee’s offering, conferring or agreeing to confer any benefit to induce any other person to violate the provisions of the “Rhode Island Hazardous Waste Management Act”, or the provisions of these Rhode Island Hazardous Waste Regulations, or the provisions of any other law, rule or regulation relating to the collection, transportation, treatment, storage, or disposal of solid waste or hazardous waste, per RIGL 23-19.1-10(p)(3)(ii).”
68. Add as 270.43(a)(6): “The permittee’s coercion of a customer by violence or economic reprisal or threat to deny a customer the use of the permittee’s services, per RIGL 23-19.1-10(p)(3)(iii).”
69. Add as 270.43(a)(7): “The permittee’s preventing, without the Director’s authorization, any transporter or other permittee from delivering solid waste or hazardous waste to its facility or to another licensed Treatment, storage, or disposal facility, per RIGL 23-19.1-10(p)(3)(iv).”
70. Add as 270.43(c): “Change in location of the facility. A permit shall immediately become void and shall be returned to the Director upon change in facility location.”
71. Add as 270.43(d): “A permit shall immediately become void and shall be returned to the Director upon the sale of the facility or change in ownership of the legal entity operating the facility, unless the change has been approved by the Director under 40 CFR 270.40.”
72. Add as 270.43(e): “Per RIGL 23-19.1-10(k), the permittee may appeal the Director’s decision to revoke his permit, subject to the “Administrative Rules of Practice and Procedure for the Administrative Adjudication for Environmental Matters”. Such appeal shall be in writing and shall be filed with the clerk of the AAD within fifteen (15) calendar days of the permittee’s receipt of the notice of revocation of the permit. The appeal shall be heard before an AAD hearing officer.
73. Replace 270.50(a)–(d) with “Permits for hazardous waste facilities shall be issued for a period not to exceed five (5) years from the date of expiration of the expiring permit and may be extended or renewed by the Director for a period not to exceed ten (10) years from the date upon which the original permit was effective. A new permit is required at the end of the ten-year period and a complete application for that permit shall be received prior to 180 days from the expiration date of the present permit.”
74. In 270.51 “Continuation of expiring permits”, replace the text of 270.51 with the following: “Relative to expiring permits, a “timely” application is one that is submitted more than 180 days prior to the permit expiration date. If a

permittee has submitted a timely and complete renewal application (for the renewal of a five year expiring permit) or a timely and complete new application (required every ten years of operation), then the terms and conditions of the expiring RCRA permit continue in force beyond the expiration date of the existing permit, if required during the permitting process, but only until the effective date of the State's issuance or denial of the RCRA permit currently applied for. Otherwise, the terms and conditions of the expiring RCRA permit do not continue in force beyond its expiration date and the permit to operate shall be considered to be expired."

75. Add as 270.52 "Renewal of permits. This section applies to the renewal of permits at the end of their initial five-year terms, for an additional five years. Permits reissued to existing facilities at the end of prior permits' full ten year terms are considered new permits and comply with the requirements for new permits set forth elsewhere in these regulations.

- (a) The Office of Waste Management shall hold a public comment period and hearing, prior to renewal of any permit.
- (b) Within fifteen (15) days following the preparation of a draft renewal permit, the Office of Waste Management shall give notice of the preparation of a draft renewal permit and a public comment period and hearing. Any changes in permit conditions shall be described in the notice. Such notice shall be published in a newspaper of general circulation in the area affected, and shall also be sent by mail directed to the last known address of the following persons (any person otherwise entitled to receive such notice may waive his or her right to receive the notice): the applicant, all persons requesting such notification in writing, all property owners within five hundred feet (500') of the perimeter of the site of the facility, and the city or town where the hazardous waste management facility is located, including the mayor or town manager and the city or town council president, EPA, federal and state agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the Advisory Council on Historic Preservation and State historical preservation officers. The list of property owners within five hundred feet of the site shall be provided by the applicant to the Office of Waste Management. The notice shall include the beginning and ending dates for the comment period, the address where comments will be received, and the name and telephone number of a person to contact for further information.
- (c) No earlier than sixty (60) days nor later than seventy-five (75) days following the public notice of the preparation of a draft renewal permit, a hearing shall be held to receive public comment. Comments from the applicant and/or any interested persons shall be recorded at the public hearing. Written comments, that also shall be considered part of the record, may be submitted at least thirty days prior to the public comment hearing and until thirty (30) days following the close of the public comment hearing, that shall constitute the public comment period.

(d) Within ninety (90) days after the close of the public comment period, the Office of Waste Management shall issue or deny the renewal permit. The renewal permit (including any changes in permit conditions) or denial shall be in writing and shall be accompanied by a response to each substantive public comment. In the case of a denial, the Office of Waste Management will cite each statutory or regulatory requirement that the applicant did not satisfy. Renewal permits shall be issued only upon a showing that the applicant meets conditions regarding proof of financial assurance, evidence of adequate liability insurance, and the other conditions as required by these regulations. The renewal permit or the denial shall be sent to the applicant and a copy of the same shall be sent to the municipality where the facility or proposed facility is located or proposed to be located. Notice of the permit decision shall also be sent to each person who submitted written comments or requested notice of the final permit decision, and a copy of the renewal permit or denial shall be sent to such persons, upon request.

(e) If the decision of the Office of Waste Management is to deny the renewal permit, the permittee, as per RIGL 23-19.1-10(k), may appeal this decision to the Department's Administrative Adjudication Division (AAD), subject to "Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters". Such appeal shall be in writing and shall be filed with the clerk of AAD within fifteen (15) calendar days of the permittee's receipt of the notice of denial of the renewal permit. The appeal shall be heard before an AAD hearing officer.

- 76. Delete 270.60(a) wording and replace it with "Ocean disposal of hazardous waste is prohibited in Rhode Island and therefore is not eligible for a permit."
- 77. In 270.60(b)(1) change "Has a Permit for underground injection" to "Has been issued a permit by the Department's Underground Injection Control Program for a remediation overseen by the Department"
- 78. Delete 270.63, 270.64, 270.65, 270.66, 270.67, 270 Subpart I, and 270 Subpart J. The reduced requirements referenced by these regulations have not been adopted by Rhode Island.
- 79. Add to 270.72(a)(1) after the word "disposal" the phrase "and if the Director approves such application"
- 80. In 270.72(a)(4) add after the first sentence (after the word "change.") "The new entity, prior to commencing as owner of operator of the facility, shall also submit to the Director information indicating its technical ability to safely operate the facility, its financial ability to maintain such facility, and any additional information the Director may request. After a review of this information, the Director shall either approve or disapprove the transfer of the permit."
- 81. Delete 270.42(l).

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B. Incorporation of 40 CFR Part 124 Federal Regulations regarding Treatment, Storage and Disposal Facilities

40 CFR part 124 is incorporated by reference in its entirety except as provided below: These regulations apply to the issuance of new permits, including permits issued to existing facilities at the end of prior permits' full ten year terms. Procedures for the renewal of permits at the end of their initial five year terms, for an additional five years, are specified in 40 CFR 270.52 of these regulations.

1. Delete 124.1, 124.2, 124.4, 124.7, 124.9, 124.13, 124.14, 124.16, 124.18, 124.20, 124.21, and 124 Subparts C – D. These provisions do not apply to RCRA and/or to State programs. Also delete 124 Subpart G. Rhode Island has not adopted the reduced standardized permit requirements of Subpart G.
2. Delete 124.3 and replace with the following:

“§ 124.3 Application for a permit

(a) *Application Requirements*

- (i) Any person who requires a permit under the RCRA program shall complete, sign, and submit to the Director an application for each permit required under § 270.1. Applications are not required for POTW RCRA permits by rule (§ 270.60).
- (ii) The Director shall not begin the processing of a permit until the applicant has fully complied with the application requirements. See §§ 270.10, 270.13, and 270.14.
- (iii) Permit applications shall comply with the signature and certification requirements of § 270.11.
- (iv) Upon receipt of a permit application for a new facility, the Director shall notify the chief executive officer and the city or town council president of the municipality where the facility is proposed to be located of the receipt of such application.”
- (v) The Director shall review the application for completeness. Upon completing the review, the Director shall notify the applicant in writing as to whether or not the application is complete. For any application deemed deficient, the Director shall provide a statement of the deficiencies, listing the information needed to make the application complete. After the application is completed, the Director may request additional information needed to clarify, modify, or supplement previously submitted information.
- (vi) If the applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement actions may be taken.

3. Delete 124.5 and replace with the following:
“§124.5 Modification, revocation and reissuance, suspension, or termination of permits.
- (a) Permits may be modified, revoked and reissued, suspended, or terminated either at the request of any interested person (including the permittee) or upon the Director’s initiative. However, permits may only be modified, revoked and reissued, suspended, or terminated for the reasons specified in §270.41 (except for 270.41(b)(3)) and 270.43 (as adopted and revised by these Regulations). All requests shall be in writing and shall contain facts or reasons supporting the request.
 - (b) If the Director decides the request is not justified, he or she shall send the requester a brief written response giving a reason for the decision. Denials of requests for modification, revocation and re-issuance, suspension, or termination are not subject to public notice, public comment, or public hearings. Such denials may be appealed by requesting a hearing with the Department’s Administrative Adjudication Division (AAD).
 - (c) **Modification, Revocation and Re-issuance**
 - (i) If the Director tentatively decides to modify or revoke and reissue a permit under 40 CFR 270.41 (other than under 270.41(b)(3)) or under 270.42(c), he or she shall prepare a draft permit under §124.6 incorporating the proposed changes. The Director may request additional information and, in the case of a modified permit, may require the submission of an updated application. In the case of revoked and reissued permits, the Director shall require the submission of a new application.
 - (ii) In a permit modification under this Rule, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this Rule, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance preceding the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.
 - (iii) Class 1 and 2 modifications as defined in §270.42 (a) and (b) are not subject to the requirements of this Rule.
 - (d) If the Director tentatively decides to terminate or suspend a permit under §270.43 or 270.41(d), he or she shall issue a written notice of intent to terminate or suspend. A notice of intent to terminate or suspend is considered a type of draft permit that follows the same procedures as any other draft permit prepared under § 124.6.”
4. Delete 124.6 and replace with the following:
“§ 124.6 Draft permits and application denials

- (a) Once an application is complete, the Director shall tentatively decide whether to prepare and issue a draft permit or to deny the application. A draft permit shall not be issued nor shall public notice of a draft permit be issued if the application is incomplete. A permit application may also be denied for causes provided in RIGL 23-19.1-10(c) – (j) and (m), unless conditions in 23-19.1-10 (l) are satisfied.
- (b) If the Director tentatively decides to deny the permit application, he or she shall issue to the applicant a notice of intent to deny the application. A notice of intent to deny the application is considered a type of draft permit that follows the same procedures as any other draft permit prepared under § 124.6. If the Director’s final decision (§124.15) is that the tentative decision to deny the permit application is correct, that such final decision may be appealed by requesting a hearing with the Department’s Administrative Adjudication Division (“AAD”) under §124.19. If the Director’s final decision (§124.15) is that the tentative decision to deny the permit application was incorrect, he or she shall withdraw the notice of intent to deny and proceed to prepare a draft permit under paragraph (c) of this rule.
- (c) If the Director decides to prepare and issue a draft permit, he or she shall prepare and issue to the applicant a draft permit that contains the following information:
 - (i) All conditions under §§ 270.30 and 270.32.
 - (ii) All compliance schedules under § 270.33.
 - (iii) All monitoring requirements under § 270.31; and
 - (iv) Standards for treatment, storage, and/or disposal facilities and other preconditions under § 270.30.
- (d) All draft permits shall be accompanied by a fact sheet required under § 124.8 and shall be publicly noticed (§ 124.10) and made available for public comment (§ 124.11). The Director shall give notice of a public informational workshop (§ 124.8) and public comment hearing (§ 124.12), issue a final decision (§ 124.15) and respond to public comments (§ 124.17). An appeal may be taken under § 124.19.”

5. Delete 124.8 and replace with:

“ **§ 124.8 Informational workshop and fact sheet.**

- (a) Within fifteen (15) days after the date of the public notice of issuing the draft permit, the Office of Waste Management shall hold an informational workshop. The purpose of the informational workshop shall be to discuss the type of facility or activity that is the subject of the draft permit or the intent to deny the application; the type and quantity of wastes that are proposed to be managed, processed and/or disposed; a brief summary for the basis for the draft permit or the intent to deny the application; proposed permit conditions, including references to applicable statutory or regulatory provisions; reasons why any requested variances or alternatives to required standards do or do not appear

justified; a description of the procedures for reaching a final decision on the draft permit or the intent to deny the application, that shall include the beginning and ending dates for the comment period hereafter, the address where comments will be received, the nature of the public comment hearing, and any other procedures by which the public may participate in the final decision; and the name and telephone number of a person to contact for further information.

(b) A fact sheet containing the information in § 124.8(a) shall be provided to the applicant and to any other requesting person.”

6. Delete 124.10 and replace with:

“ §124.10 Public notice of permit actions, informational workshop, public hearing, and public comment period.

(a) Scope

The Director shall give public notice that the following actions have occurred:

(i) A permit application has been tentatively denied under §124.6(b);

(ii) A draft permit has been prepared and issued under §124.6(c);

(iii) An informational workshop and public comment hearing under §§ 124.8 and 124.12 respectively have been scheduled.

(b) Timing

(i) Public notice of the preparation and issuance of a draft permit or its tentative denial shall allow at least sixty (60) days for public comment; at least thirty (30) days prior to the public comment hearing and thirty (30) days following the close of the public comment hearing, that shall constitute the public comment period.

(ii) Public notice of the informational workshop, public comment period, and public hearing shall be given following the issuance of the draft permit or notice of intent to deny the application. The date of the public notice shall be no more than fifteen (15) days prior to the holding of the informational workshop and shall be sixty (60) to seventy five (75) days prior to the holding of the public comment hearing.

(c) Methods

Public notice of activities described in paragraph (a)(1) of this rule shall be given by the following methods:

(i) By mailing a copy of the written notice to the last known address of the following persons (any person otherwise entitled to receive a notice under this paragraph may waive his or her rights to receive this notice);

- The applicant;
- EPA
- Federal and State agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the

Advisory Council on Historic Preservation and State Historical Preservation Officers.

- Persons on a mailing list developed by:
 - a. Including those who request to be on the list;
 - b. Soliciting persons for “area lists” from participants in past permit proceedings in that area; and
 - c. Notifying the public of the opportunity to be put on the mailing list through periodic publication in a newspaper of general circulation and via other means that the Department decides to employ.
 - All property owners within five hundred (500) feet of the perimeter of the facility’s site. This list of owners shall be provided by the applicant to the Office of Waste Management;
 - The city or town where the facility is located, including the mayor or town manager and the town or city council president.
- (ii) By publication of a legal notice in a daily or weekly newspaper of general circulation in the area affected and by broadcast over local radio stations.
- (d) Contents
- All public notices shall contain the following minimum information:
- (i) Name and address of the Office processing the permit action for which public notice is being given;
 - (ii) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;
 - (iii) A brief description of the operations conducted at the facility or activity described in the permit application or draft permit;
 - (iv) Name, address and telephone number of a Department person from whom interested persons may obtain further information, relative to the draft permit or notice of intent to deny the application, the fact sheet, and the permit application;
 - (v) A brief description of the comment procedures required by §§ 124.11 and 124.12, the date, time and place of the informational workshop and public comment hearing, and other procedures by which the public may participate in the final permit decision;
 - (vi) Reference to the date(s) of any previous public notice(s) relating to the permit;
 - (vii) A brief description of the nature and purpose of the informational workshop and public comment hearing, including the applicable rules and procedures.
- (e) In addition to the public notice described in paragraph (d), the Department shall make available to the public the fact sheet required by § 124.8, the permit application, and the draft permit or notice of intent to deny the application and shall notify the persons listed in paragraph (c)(1) that this information is available to them.”

7. Delete 124.11 and replace with the following:
“§ 124.11 Public comments.
During the public comment period provided under § 124.10, any interested person may submit written comments on the draft permit. All written comments shall be considered and made part of the record of public comment, along with a transcript of oral comments made at the public hearing. All comments shall be considered in making the final decision and shall be answered as provided in § 124.17.”

8. Delete 124.12 and replace with the following:
“§ 124.12 Public hearings.
(a) The Director shall hold a public comment hearing for each draft permit prepared. Public notice of the hearing shall be given as specified in § 124.10.
(b) Any person may submit oral or written statements and data concerning the draft permit.
(c) Comments from the applicant and/or any other interested person shall be recorded at the hearing. A tape recording or written transcript of the hearing shall be made available to the public.”

9. Delete 124.15 and replace with;
“§124.15 Issuance or denial of permit or acceptance or denial of application
Within ninety (90) days after the close of the public comment period, the Director shall issue or deny the permit or accept or deny the application, as appropriate. The permit or denial of the permit or acceptance or denial of the application, as appropriate, shall be in writing and shall be accompanied by a response to each substantive public comment. In the case of a denial, the Director will cite each statutory or regulatory requirement that the applicant did not satisfy. Permits shall be issued only with conditions including proof of financial responsibility (to include, per 40 CFR 264 Subpart H, financial assurance for closure (and post-closure, if applicable) and liability coverage) and such other conditions as required by these regulations. The permit or its denial, or the acceptance or denial of the application, as appropriate, shall be sent to the applicant and a copy of the same shall be sent to the municipality where the facility or proposed facility is located or proposed to be located. Notice of the permit or application decision shall also be sent to each person who submitted written comments or requested notice of the final permit decision, and a copy of the permit shall be sent to such persons upon request.”

10. Delete 124.17 and replace with the following:
“§ 124.17 Response to public comments.

- (a) At the time that any final permit decision is issued under § 124.15, the Director shall issue a response to public comments. The response shall:
 - (i) Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change(s); and
 - (ii) Briefly describe and respond to all significant public comments raised during the public comment period or during the hearing.
- (b) The response to public comments shall be made available to the public.”

11. Delete 124.19 and replace with;

“§124.19 Appeal of permit and application decisions

Any interested person, as per R.I.G.L. 23-19.1-10(b)(5), may appeal the decision of the Office of Waste Management to the Department’s Administrative Adjudication Division (“AAD”), subject to “Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters” and subject to conditions in RIGL 23-19.1-10(b)(6) and (b)(7). All appeals shall be in writing and shall be filed with the clerk of the AAD within thirty (30) calendar days of receipt of notice of the contested permitting action, except that any permittee who receives a notice of intent to revoke a permit or deny a renewal permit shall have fifteen (15) days from the receipt of this notice to submit a written appeal to the clerk of the AAD, per RIGL 23-19.1-10(k). All appeals shall be heard before AAD hearing officers.”

12. Delete 124.31 and replace with the following:

“§ 124.31 Pre-application public meeting and notice.

- (a) *Applicability.* The requirements of this rule shall apply to all applicants seeking initial permits for hazardous waste management facilities, and shall also apply to those applicants seeking a new permit (i.e., every ten years). The requirements of this rule shall also apply to applicants seeking renewal of permits for such facilities, i.e., after five years of operation with an existing permit, only if the renewal application is proposing a significant change in facility operations. For the purposes of this rule, a “significant change” is any change that would qualify as a class 3 permit modification under 40 CFR 270.42. The requirements of this rule do not apply to permit modifications under 40 CFR 270.42 (public notice requirements for those modifications are detailed in 270.42) or to applications that are submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.
- (b) Prior to the submission of a permit application for a hazardous waste management facility, the applicant shall hold at least one meeting with the public in order to solicit questions from the community and inform the community of proposed hazardous waste management activities. The

- applicant shall post a sign-in sheet or otherwise provide a voluntary opportunity for attendees to provide their names and addresses.
- (c) The applicant shall submit a summary of the meeting, along with the list of attendees and their addresses developed under paragraph (b) of this rule, and copies of any written comments or materials submitted at the meeting, to the Department
 - (d) The applicant shall provide public notice of the pre-application meeting at least 30 days prior to the meeting. The applicant shall maintain, and provide to the permitting agency upon request, documentation of the notice.
 - (i) The applicant shall provide public notice in all of the following forms:
 - *A newspaper advertisement.* The applicant shall publish a notice, fulfilling the requirements in paragraph (d)(2) of this rule, in a newspaper of general circulation in the county or equivalent jurisdiction that hosts the proposed location of the facility. In addition, the Director shall instruct the applicant to publish the notice in newspapers of general circulation in adjacent counties or equivalent jurisdictions, where the Director determines that such publication is necessary to inform the affected public. The notice shall be published as a display advertisement.
 - *A visible and accessible sign.* The applicant shall post a notice on a clearly marked sign at or near the facility, fulfilling the requirements in paragraph (d)(2) of this rule. If the applicant places the sign on the facility property, then the sign shall be large enough to be readable from the nearest point where the public would pass by the site.
 - *A broadcast media announcement.* The applicant shall broadcast a notice, fulfilling the requirements in paragraph (d)(2) of this rule, at least once on at least one local radio station or television station. The applicant may employ another medium with prior approval of the Director.
 - *A notice to the permitting agency.* The applicant shall send a copy of the newspaper notice to the Department and to the appropriate local government unit, in accordance with §124.10(c)(1)(vi).
 - (ii) The notices required under paragraph (d)(i) of this rule shall include:
 - The date, time, and location of the meeting;
 - A brief description of the purpose of the meeting;
 - A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location;

- A statement encouraging people to contact the facility at least 72 hours before the meeting if they need special access to participate in the meeting; and
- The name, address, and telephone number of a contact person for the applicant. “

13. Delete 124.32 and replace with the following:

“§ 124.32 Public notice requirements at the application stage.

(a)*Applicability.* The requirements of this rule shall apply to all applicants seeking initial permits for hazardous waste management facilities and shall also apply to those applicants seeking a new permit (i.e. every ten years). The requirements of this rule shall also apply to applicants seeking renewal of hazardous waste management facility permits, i.e., after five years of operation with an existing permit, only if the renewal application is proposing a significant change in facility operations. For the purposes of this rule, a “significant change” is any change that would qualify as a class 3 permit modification under 40 CFR 270.42. The requirements of this rule do not apply to permit modifications under 40 CFR 270.42 (public notice requirements for those modifications are detailed in 270.42) or permit applications submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

(b)*Notification at application submittal.*

- (i) The Director shall provide public notice as set forth in §124.10(c)(1)(iv) and (v), and notice to appropriate units of State and local government as set forth in §124.10(c)(1)(vi), that a permit application has been submitted to the Agency and is available for review.
- (ii) The notice shall be published within a reasonable period of time after the application is received by the Director. The notice shall include:
 - The name and telephone number of the applicant's contact person;
 - The name and telephone number of the permitting agency's contact office, and a mailing address to which information, opinions, and inquiries may be directed throughout the permit review process;
 - An address to which people can write in order to be put on the facility mailing list;
 - The location where copies of the permit application and any supporting documents can be viewed and copied;
 - A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location on the front page of the notice; and
 - The date that the application was submitted.

- (c) Concurrent with the notice required under §124.32(b) of this subpart, the Director shall place the permit application and any supporting documents in a location accessible to the public in the vicinity of the facility or at the Department's office. "

14. Delete 124.33 and replace with the following:

"§ 124.33 Information repository.

- (a) Applicability. The requirements of this rule apply to all applications seeking initial permits, renewal permits (i.e., after five years of operation under an existing permit), and new permits (every ten years) for hazardous waste management facilities.
- (b) The Director may assess the need, on a case-by-case basis, for an information repository. When assessing the need for an information repository, the Director shall consider a variety of factors, including: the level of public interest; the type of facility; the presence of an existing repository; and the proximity to the nearest copy of the administrative record. If the Director determines, at any time after submittal of a permit application, that there is a need for a repository, then the Director shall notify the facility that it shall establish and maintain an information repository. (See 40 CFR 270.30(m) for similar provisions relating to the information repository during the life of a permit).
- (c) The information repository shall contain all documents, reports, data, and information deemed necessary by the Director to fulfill the purposes for which the repository is established. The Director shall have the discretion to limit the contents of the repository.
- (d) The information repository shall be located and maintained at a site chosen by the facility. If the Director finds the site unsuitable for the purposes and persons for which it was established, due to problems with the location, hours of availability, access, or other relevant considerations, then the Director shall specify a more appropriate site.
- (e) The Director shall specify requirements for informing the public about the information repository. At a minimum, the Director shall require the facility to provide a written notice about the information repository to all individuals on the facility mailing list.
- (f) The facility owner/operator shall be responsible for maintaining and updating the repository with appropriate information throughout a time period specified by the Director. The Director may close the repository at his or her discretion, based on the factors in paragraph (b) of this rule.

8 OPERATIONAL REQUIREMENTS FOR TREATMENT, STORAGE AND DISPOSAL FACILITIES

8.1 Applicability:

This rule shall apply to Treatment, Storage and Disposal Facilities. This rule does not apply to facilities that operate in accordance with [Rule 9](#) as Temporary Transfer and Storage Facilities.

8.2 Incorporation of Federal Regulations regarding Treatment, Storage and Disposal Facilities

- A. 40 CFR Part 264 is incorporated by reference in its entirety except as provided below, and except as provided in [Rule 16](#) “Corrective Action” and except as otherwise noted in these Rules and Regulations:
1. Delete 264.1(c), 264.1(d), 264.1(g)(1), 264.1(g)(4), and 264.1(g)(12). These exemptions do not apply in Rhode Island.
 2. Delete existing language in 264.1(g)(3) and replace with “A generator accumulating hazardous waste on-site in accordance with [Rule 5](#) and in accordance with 40 CFR 262.34.
 3. Delete 264.1(f), since the State of Rhode Island rather than the EPA is directly operating the RCRA program in Rhode Island. However, the Part 264 requirements do apply in Rhode Island because they have been incorporated by reference by these Rules and Regulations, with exceptions as noted.
 4. In 264.1(g)(2) at the end of the sentence add the words “and except that in 261.6(a)(3)(ii) the scrap metal exclusion of 261.4(a)(13) does not apply to circuit boards that are components of those electronic devices as defined by the term “used electronic device” in Rule 3.
 5. Add as 264.1(g)(5)(i), 264.1(g)(6)(i), and 264.1(g)(10)(i) “Operations shall be carried out in a system where equipment has been designed, engineered, and constructed so as to protect human health and the environment, and so as to comply with all requirements within OSHA standards.”
 6. Delete existing language in 264.1(g)(6), and replace with the following: “The owner or operator of an elementary neutralization unit as defined in 40 C.F.R. § 260.10. Also, the owner and operator of a wastewater treatment unit provided that all of the following conditions are met:
 - (a) the unit receives and treats or stores an influent wastewater that is a hazardous waste or generates and accumulates a wastewater treatment sludge that is a hazardous waste as defined in these Rhode Island Hazardous Waste Regulations or treats or stores a wastewater treatment sludge that is a hazardous waste. and

Deleted: .

(b)the unit is being used to legitimately treat only wastewater, as defined at 47 Fed. Reg. 4706 (Feb. 2, 1982). (Note: concentrated hazardous wastes are not covered by this exemption. The disposal of concentrated hazardous waste down the drain is prohibited), and,

Deleted: .

(c)the unit is a tank or tank system as defined in 40 C.F.R. § 260.10 (e.g., wastewaters when stored or transported in containers are not covered by the exemption), and,

Deleted: .

(d)the unit has a current ongoing discharge to surface waters or the sewers that is on-site and is subject to regulation under Section 402 or 307(b) of the Federal Clean Water Act and Section 46-12-5 of the General Laws of Rhode Island, as amended (e.g., zero discharge units such as evaporators are not covered by this exemption, but rather shall comply with the RCRA requirements for generators or Treatment, Storage and Disposal Facilities, as applicable, in addition to any requirements specified in any permit issued by a water program by the Department's Office of Water Resources or a publicly owned treatment facility), and

(e)the unit has been specifically described in a water permit application (e.g., in a schematic diagram) and specifically referenced in a water permit as being part of the facilities subject to regulation under the Federal Clean Water Act and Section 46-12-5 of the General Laws of Rhode Island (e.g., tanks used to store hazardous wastewaters or sludges not covered by a water permit application and permit are not covered by this exemption). Provided that if the owner or operator of either an elementary neutralization unit or a wastewater treatment unit is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined 40 C.F.R. § 268.40, Table Treatment Standards for Hazardous Wastes), or reactive (D003) waste, to remove the characteristic before land disposal, the owner/operator shall comply with the requirements set out in 40 C.F.R § 264.17(b). Provided also that any sludge or other waste materials generated from an elementary neutralization unit or a wastewater treatment unit shall be managed as a hazardous waste if such sludge or waste material meets the criteria of a hazardous waste. The full hazardous waste regulations apply to such sludge or other waste material when it leaves the elementary neutralization unit or wastewater treatment unit, e.g., when a sludge is stored in containers on-site. For zero discharge units, the hazardous waste requirements apply both to any hazardous wastewaters and to hazardous sludges, when either is generated.”

7. In 264.1(g)(9) replace “ten days” with “seventy-two hours”. Also, add to the end of this provision: “Temporary Transfer and Storage Facilities shall meet the requirements specified in [Rule 9](#) of these *Rhode Island Hazardous Waste Regulations*.”

8. In 264.1(g)(11)(iii) delete “and”.

9. Add 264.1(g)(11)(v) “Used electronics as described in [Rule 13.2.](#)”
10. Add 264.1(g)(11)(vi) “Silver-containing photo fixing solutions as described in [Rule 13.3.](#)”
11. In 264.1(j)(7) replace “264.18(b)” with “264.18(b), except for 264.18(b)(1)(ii), including (A) – (D)”.
12. Add to 264.10 the sub-paragraph “(c) Owners and operators of facilities that each initiate a hazardous waste shipment shall also comply with [Rules 5.18.](#)”
13. Add to 264.10 the sub-paragraph “(d) In addition to these General Facility Standards, the permittee shall also have a general duty to at all times properly operate and maintain the facility. This includes adequate staffing, training, laboratory and process controls and adequate back-up systems where necessary.”
14. In 264.12(a)(1) after “Regional Administrator” add: “and the Director”; also in the last sentence of paragraph (a)(1) after “source” add “to the Regional Administrator” and after “not required” add: “but is required to be sent to the Director at least four weeks in advance of the expected arrival date at the facility”
15. In 264.13(b)(6) delete “264.1034(d), 264.1063(d), 264.1083,”. Rhode Island is not authorized to administer the referenced regulations under 40 CFR part 264, subparts AA, BB and CC (RCRA air emissions regulations). Rather, the EPA directly administers the subparts AA, BB and CC regulations in Rhode Island.
16. Delete 264.13(b)(8).
17. In 264.15(b)(4), in the second sentence delete the words “, except for Performance Track member facilities, that must inspect at least once each month, upon approval by the Director, as described in paragraph (b)(5) of this section”. Also in 264.15(b)(4), replace “264.278” with “264.273” and delete “264.1033, 264.1052, 264.1053, 264.1058, and 264.1083 through 264.1089”.
18. Delete 264.15(b)(5).
19. Delete 264.18(a).
20. Delete 264.18(b)(1)(ii) including its paragraphs (A) – (D) and in 264.18(b)(1)(i) replace “;or” with a “.”, and in 264.18(b)(1) replace “A facility located in a 100-year floodplain” with “Only facilities that perform storage and/or treatment (not disposal) may be located in 100 year floodplains and such facilities”.
21. In 264.56(g) add, after the word “chapter”, “and in accordance with Rules 5 and 6 of these Rules and Regulations”.
22. In 264.70(a) replace “ § 264.1 provides otherwise” with “those portions of § 264.1 adopted by the Department provide otherwise”.

23. In 264.71 add an introductory paragraph immediately prior to paragraph (a); “Except for facilities exempted by § 264.70 and except for facilities subject to § 264.71(b) [receiving waste that must at least be accompanied by a shipping paper in lieu of a manifest], the facility owner or operator shall not accept any hazardous waste without a completed Manifest. All waste required to be manifested shall employ use of the federal manifest forms. These manifest requirements also pertain to manifests received by the facility from the generator after the shipment has been received and accepted [based on a shipping paper] as described in § 264.71(b). Additionally, the facility owner or operator shall submit to the Department the names and signatures of all agents of the owner or operator authorized to sign the manifest.
24. In 264.71(a) add a sub-paragraph; “(2)(vi) Send a copy of the signed manifest to the Department and to the state where the waste was generated (if required by that state), within five days of receipt of the waste at the facility (or sooner if required by another state). All facilities, whether they mail copies of individual manifests or submit individual manifest information electronically, shall also submit to the Department a quarterly report for all manifests received in that quarter in an electronic format acceptable to the Department. This submission shall include a written signed statement attesting to the accuracy and completeness of the information. This quarterly report shall include the following data for each manifest:
- (a) Manifest number
 - (b) Generator EPA ID Number
 - (c) Generator Name
 - (d) Transporter(s) EPA ID Number
 - (e) Transporter(s) Name
 - (f) Waste Codes
 - (g) Waste Description
 - (h) Waste Quantity
 - (i) Date of Generation
25. In 264.71(b) add a sub-paragraph; “(6) Send a copy of the signed manifest to the Department and to the state where the waste was generated (if required by that state), within five days of receipt of the waste at the facility (or sooner if required by another state). However, if the facility did not receive a manifest within five days of receipt of the waste at the facility (or within any shorter period required for submission by another state), then send a copy of the signed and dated shipping paper to the Department and to the state where the waste was generated (if required by that state) within five days of receipt of the waste at the facility (or sooner if required by another state). In addition, upon later receiving the manifest, send a copy of the signed manifest to the Department and to the state where the waste was generated (if required by that state), within five days of receipt of the

manifest (or sooner if required by another state). With respect to sending a copy of the manifest and/or shipping paper to the Department, the owner or operator may alternatively satisfy this requirement by submitting the information on the manifest and/or shipping paper electronically to the Department in a format acceptable to the Department and in a time frame greater than five days but not less than quarterly. All facilities, whether they mail copies of individual manifests and/or shipping papers or submit individual manifest information electronically, shall also submit to the Department a quarterly report for all manifests and/or shipping papers received in that quarter in an electronic format acceptable to the Department. This submission shall include a written signed statement attesting to the accuracy and completeness of the information. This quarterly report shall include the following data for each manifest:

- (a) Manifest number
- (b) Generator EPA ID Number
- (c) Generator Name
- (d) Transporter(s) EPA ID Number
- (e) Transporter(s) Name
- (f) Waste Codes
- (g) Waste Description
- (h) Waste Quantity
- (i) Date of Generation

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- 26. In 264.71(c) replace the words “the requirements of part 262 of this chapter” with the words “the portions of Part 262 of this chapter incorporated by reference and Rule 5 of these Rules and Regulations”
- 27. In 264.73(b) add a sub-paragraph; “(20) For storage facilities, a description and the quantity of each waste shipped, cross-referenced by manifest document number”.
- 28. In 264.73((b)(3) delete “264.1034, 264.1063, 264.1083,”
- 29. In 264.73(b)(6) delete “264.1034(c)-264.1034(f), 264.1035, 264.1063(d)-264.1063(i), 264.1064, and 264.1082 through 264.1090”.
- 30. In 264.74(b) add after the word “period” “(of at least three years)”.
- 31. Delete 264.77(c) and replace with “(c) As otherwise required by subparts F and K through N of this part.”
- 32. In 264.90(b) replace “§ 264.1” with “those portions of § 264.1 adopted by the Department” and delete sub-paragraphs (2), and (5) (since these exemptions do not apply in Rhode Island).
- 33. In 264.90(a)(2) add at the end of this paragraph, “A facility that is not a regulated unit shall comply with its approved groundwater monitoring plan, unless the Department does not require the facility to do groundwater monitoring.”

34. In 264.114, after the word “chapter”, add “and in accordance with Rule 5 of these Rules and Regulations”.
35. In 264.143(a) delete sub-paragraphs (3) through (5) and replace with “(3) For new facilities, the full amount of the closure cost estimate shall be deposited into the closure trust fund when the fund is established. For existing facilities, the full amount of the closure cost estimate shall be deposited into the closure trust fund by July 18, 1985.” In sub-paragraph (6), delete “After the pay-in period is completed”.
36. In 264.145(a) delete sub-paragraphs (3) through (5) and replace with “(3) For new facilities, the full amount of the post closure cost estimate shall be deposited into the post closure trust fund when the fund is established. For existing facilities, the full amount of the post closure cost estimate shall be deposited into the post closure trust fund by July 18, 1985.”. In sub-paragraph (6) delete “After the pay-in period is completed,” .
37. In 264.143(h) and 264.145(h) where the sentence "If the facilities covered by the mechanism are in more than one Region, identical evidence of financial assurance shall be submitted to and maintained with the Regional Administrator of all such Regions." appears, replace it with the sentence "If the facilities covered by the mechanism are in more than one State, identical evidence of financial assurance shall be submitted to and maintained with the State Agency regulating hazardous waste or with the appropriate Regional Administrator if the facility is located in an unauthorized State.".
38. In 264.151 make the following substitutions, consistent with the substitution rules stated in the definitions of Administrator/Regional Administrator, EPA and RCRA in Rule 3 (Definitions) of these *Rhode Island Hazardous Waste Regulations*:

| <u>Where the 40 CFR 264.151 wording says:</u> | <u>Substitute:</u> |
|---|---|
| United States Environmental Protection Agency | Rhode Island Department of Environmental Management |
| EPA ¹ | DEM |
| United States Government ² | State of Rhode Island |
| EPA Regional Administrator or Regional Administrator ³ | Director |
| Region(s) where the facility(ies) is (are) located | (delete) |
| Appropriate (when used with Regional Administrator) | (delete) |

| | |
|---|--|
| Resource Conservation and Recovery Act | Hazardous Waste Management Act of 1978 |
| RCRA | HWMA |

¹Except when used in "EPA identification number" and when used in "EPA and/or a state".

²Except when referring to securities issued by the U. S. Government.

³Except wherever 40 CFR 264.151 requires that owners and operators notify several Regional Administrators of their financial obligations, the owner or operator shall notify both the Director and all Regional Administrators of Regions that are affected by the owner or operator's financial assurance mechanisms.

39. In 264.173 add a sub-paragraph "(c) The side of all hazardous waste containers of 119 gallons or less shall be labeled with the following information:

- (a) The words "hazardous waste";
- (b) The EPA or RI waste code;
- (c) The generator's name and address; and
- (d) A unique ID number (that has the ability to link to the manifest number).

40. Revise 264.174 to read " At least weekly, the owner or operator shall inspect areas where containers are stored. The owner or operator shall look for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors. "

41. In 264.175, 264.178, 264.193, and 264.351, after the word "chapter", add "and in accordance with Rule 5 and Rule 6 of these Rules and Regulations."

42. In 40 CFR 264.191(a) and 264.191(c), compliance in Rhode Island relative to the January 12, 1988 and July 14, 1986 dates, respectively, applies only to a tank system owned or operated by a federal small quantity generator or any tank system (aboveground, onground, inground, or underground) that cannot be entered for inspection. Relative to a tank system that is not owned or operated by a federal small quantity generator and that is a tank system (aboveground, onground, inground, or underground) that can be entered for inspection, "January 12, 1988" and "July 14, 1986" shall be replaced with "December 1, 1992", wherever those dates occur in 40 CFR 264.191(a), and 264.191(c), respectively.

43. Delete 264.195(e)

44. Add as the introduction to 264.301, [prior to paragraph (a)] the sentence "Landfills shall be designated as Class I, Class II, or Class III."

45. Add at the end of 264.301(c)(1)(i)(B) the statement “The bottom liner shall be installed with a minimum two percent slope and lead to collection sumps at all low points”.
46. Delete 264.301(l) requirements for Alabama landfills and replace with “(l) There shall be a minimum distance of 500 feet between any active portion of the facility and any surface body of water and any wetland.”
47. Add as 264.301(m) “The boundaries of all active portions of the landfill shall be at least 500 feet from any private water supply or livestock water supply.”
48. Add as 264.301(n) “Landfill erosion, landslides, and slumping shall be minimized.”
49. Add as 264.301(o) “The landfill shall contain a gas collection and venting system to prevent the lateral movement of gases generated within the landfill and to prevent the accumulation of these gases within confined structures on or adjacent to the landfill area.”
50. Add as 264.301(p):

“Class I Landfills shall be located only in "Till" areas as identified on the Ground Water Maps prepared by the United States Geological Survey and shall include in the design the following:

 - (a) A two-liner system installed on the bottom and all sides of any disposal area consisting of two membrane liners.
 - (b) A leachate monitoring, collection and removal system installed above the top liner that consists of soils at least three feet thick and that allows leachate to move rapidly through the soils and collect in sumps.
 - (c) A minimum of six inches of sand immediately overlaying and under the membrane liner.
 - (d) Membrane liners, that meet the following requirements:
 - (e) Be of adequate strength and thickness to ensure mechanical integrity and have a minimum thickness of 30 mils.
 - (f) Be resistant to attack from soil bacteria and fungi.
 - (g) Has ample weather resistance to withstand the stress of extreme heat, freezing and thawing.
 - (h) Has adequate tensile strength to elongate sufficiently and withstand the stress of installation and/or use of machinery and equipment.
 - (i) Be of uniform thickness, free from thin spots, cracks, tears, blisters and foreign particles.
 - (j) Be placed on a stable base.
 - (k) Has a permeability less than or equal to 1×10^{-12} cm/sec or its equivalent.

- (l) Be seamed in a manner that does not adversely affect any property of the membrane.”
51. Add as 264.301(q) “Class II Landfills may be located in either "Till" areas or "Outwash" areas as identified on the Ground Water Maps prepared by the United States Geological Survey and shall be of the same design as Class I Landfills.”
52. Add as 264.301(r) “Class III Landfills may be located in either "Till" areas or "Outwash" areas as identified on the Ground Water Maps prepared by the United States Geological Survey. Class III Landfills located in "Outwash" areas and Class III Landfills located in "Till" areas shall meet the requirements of 40 CFR 264.301(a) through (o) and 264 Subpart F.”
53. Add as 264.301(s) “The Director may approve a design that affords protection equivalent to any of the requirements for classes of landfills in 264.301(p)–(r), provided that all minimum federal requirements are retained. Prior to approving an equivalent design, the Director shall prepare a written opinion that shall compare and evaluate the proposed equivalent design with the requirements of the appropriate class and shall state his reasons for approving the proposed equivalent design. This written report shall be made available to the public prior to the public hearing required by 40 CFR 270.10(c) and 40 CFR 124.10(b).”
54. Add in 264.301(t) “Class I Landfills shall not accept any waste that:
- (a) Is an R006 waste (extremely hazardous waste) or
 - (b) Has a 40 CFR 261.33(a)(2) OR 261.33(a)(4) characteristic of reactivity or
 - (c) Is a forbidden explosive as defined in 49 CFR 173.54 or
 - (d) Is a Division 1.1., Division 1.2 or Division 1.3 explosive as defined in 49 CFR 173.53 or 49 CFR 173.50, respectively, or
 - (e) Is a liquid or gaseous material that is a liquid while under pressure having a flash point below 73°F and a boiling point less than 100°F
 - (f) Is an ignitable compressed gas as described in 40 CFR 261.21(a)(3), or
 - (g) Is a non-liquid having a 40 CFR 261.21(a)(2) characteristic of ignitability, or
 - (h) Is an oxidizer as describe din 40 CFR 261.21(a)(4).
55. Add in 264.301(u) “Class II and III Landfills shall not accept any waste that:
- (a) Is a prohibited waste in Class I landfills as described above, or
 - (b) Has a 40 CFR 261.23(a)(3) characteristic of reactivity or
 - (c) Has a 40 CFR 261.23(a)(6) characteristic of reactivity, or
 - (d) May form potentially explosive mixtures with oxidizable materials or
 - (e) Has a 40 CFR 261.23(a)(5) characteristic of reactivity, or

- (f) Is a liquid having a flashpoint less than 73°F and a boiling point at or above 100°F, or
 - (g) Is a liquid having a flashpoint at or above 73°F and a boiling point less than 100°F, or
 - (h) Is a liquid that ignites spontaneously in dry or moist air at or below 130°F pt
 - (i) Is a compressed gas or mixture or liquid flammable material having a properties as described in 40 CFR 261.21(a)(3)(i).
56. In 264.313 delete “, unless 264.17(b) is complied with”
 57. Delete 264 Subparts AA, BB, and CC. Also delete 264.179, 264.200, and 264.232, in 264.340(b)(2) delete “, BB and CC,,” and in 264.601 delete “and subparts AA through CC.” Rhode Island is not authorized to administer the referenced regulations under 40 CFR part 264, subparts AA, BB and CC (RCRA air emissions regulations). Rather, the EPA directly administers the subparts AA, BB and CC regulations in Rhode Island.
 58. Delete 264.149 and 264.150 (not applicable in authorized States).
 59. Delete 264 Appendix VI (not applicable in Rhode Island due to absence of such earthquake fault lines).
 60. Delete 264.340(b)(1). Also in 264.601 delete “,part 63 subpart EEE and part 146.” These exemptions do not apply in Rhode Island.
 61. Revise 264.1101(c)(4) to read “Inspect and record in the facility’s operating record, at least once every seven days.

9 REQUIREMENTS FOR TEMPORARY TRANSFER AND STORAGE FACILITIES

- A. **Applicability.** This Rule applies to facilities that temporarily transfer and store hazardous waste at locations for up to and not exceeding seventy-two (72) hours, excluding Sundays and federal and Rhode Island legal holidays, at locations included on the application. This Rule does not apply to waste that is received from off-site by a utility that is exempt under [Rule 6.2\(A\)\(9\)](#).
- B. **Authorization Requirements.** All persons who shall construct, operate or own a temporary transfer and storage facility shall first submit a complete application to the Office of Waste Management and obtain a Letter of Authorization from the Director prior to conducting any such activities on-site.
- C. **Closure Plan and Financial Requirements.** Owners or operators of a temporary transfer and storage facility shall develop a closure plan, complete with a cost estimate for closing down their facility, and submit this plan along with an Application for Authorization as defined below, Owners or operators shall document their financial ability to complete the closure plan by providing financial assurance equivalent to the cost estimate contained within the closure plan. If the owner or operator fails to satisfy these requirements the Director may deny their Application for Authorization.
- D. **Application Specifications.** All applications for authorization shall contain at least the following information:
1. The location of the facility, including the assessor's plat and lot numbers and address;
 2. The name and address of the property owner and operator of the facility;
 3. A detailed and complete description of the operations at the facility;
 4. A site plan depicting the facility's floor plan, yard layout, drainage system and storage and transfer location(s);
 5. A complete list of all pollution control and safety equipment to be utilized or maintained on-site;
 6. Demonstration that the proposed facility is not within an area where the groundwater is classified as GAA, a well head protection area, or within areas where the groundwater is classified GA and where public water is not available to all surrounding properties;
 7. A copy of the applicant's environmental liability insurance policy for the facility; and
 8. The facility's closure cost estimate and financial assurance mechanism.
- E. **Application fee.** An application fee of two thousand dollars (\$2,000.00) shall be submitted with each new application for a Letter of Authorization to operate a temporary transfer and storage facility. Yearly renewal application fees shall be five hundred dollars (\$500).

- F. Authorization Period. Each Letter of Authorization shall be valid for a period of not more than one (1) year from the date of issuance.
- G. Expiration of Authorization/ renewal of authorization. At least thirty (30) days before the end of the authorization period specified above, the owner/operator may submit a renewal application and fee in accordance with the requirements of this rule to operate a temporary transfer and storage facility.
- H. Posting. Any Letter of Authorization issued hereunder shall be maintained on the facility and posted in a conspicuous location, and shall be the property of the Department.
- I. Change of Ownership or Location. Changes in ownership, administration or location of temporary transfer and storage facility are subject to the following requirements:
1. The Director shall be notified in writing thirty days prior to any change in ownership of the facility or legal entity operating the facility or location or discontinuance of services;
 2. A Letter of Authorization is not transferable to any other property.
 3. Any change in ownership shall require written authorization of the Department prior to the change. The Director may require resubmission of all or part of the application in connection with the transfer.
- J. Revocation. The Director may revoke or suspend a Letter of Authorization in the event that a determination is made by the Director that the facility is not being operated in a manner that is consistent with these Regulations or the Letter of Authorization.
- K. Generator Requirements. Temporary transfer and storage facilities shall comply with applicable sections of hazardous waste generator requirements contained in Rule 5 including standards for Large Quantity Generators in Section 5.13.
- L. Storage Units. Owners or operators of the temporary transfer and storage facility may store hazardous waste only in containers.
- M. Condition of Storage Units. Containers used to store hazardous waste at the transfer and storage facility shall be:
1. In good condition and free of severe rusting, corrosion or structural defects. In the event that a container deteriorates and begin to leak the owner shall transfer the hazardous waste to a container that is in good condition;
 2. Liquid tight with no visible leaks and;
 3. Kept closed at all times.
- N. Secondary Containment for Containers. Containers used to store hazardous waste shall be equipped with secondary containment that at a minimum has the following:
1. An impervious floor or bottom covering the entire storage area; and

2. Dikes, berms or walls capable of containing a spill or release; and
 3. A capacity equivalent to a minimum of 100% of the volume of the hazardous waste stored in the containers at the facility; and
 4. The entire system shall be impervious to prevent a release; or
 5. An equivalent containment system may be substituted if prior written approval is obtained from the Director.
- O. Interior Storage. Containers at temporary hazardous waste transfer and storage facility shall be stored within a building.
- P. Labeling. Containers used to store hazardous waste at the temporary transfer and storage facility shall be in compliance with Rule 5.
- Q. Local Authority. Owners and operators of temporary hazardous waste transfer and storage facilities shall be in compliance with the local building code and fire safety requirements.
- R. Operation. No waste shall be bulked during the storage time.
- S. Response to release. Upon detection of a release of hazardous waste, the owner or operator of the facility shall perform the following:
1. Immediately notify the Department's Emergency Response Program (at 401-222-1360 or after hours at 401-222-3070), the local authorities and the National Response Center.
 2. Within 15 days of the incident, the owner or operator of the facility shall submit a written report to OWM. The report should include:
 - (a) Name and address of facility;
 - (b) Time and type of incident;
 - (c) Name and quantity of material(s) involved;
 - (d) The extent of injuries;
 - (e) Any actions were taken during the incident and;
 - (f) The possible hazards to human health or the environmental.
- T. Tracking. Owners or operators of the facilities shall keep a written log of each hazardous waste shipment received for temporary storage at the facility and of each off-site shipment of the hazardous from the facility for a period of at least three years. The owner or operator shall also reconcile the incoming and outgoing shipments of hazardous waste on the written log in order to demonstrate that the hazardous waste is not being stored for greater than the allowed seventy two (72) hours time period. The written logs shall be provided to the Department upon request.
- U. Owners or operators of the facilities shall maintain a valid hazardous waste transporter permit. The site and vehicle shall be secured to prevent unauthorized access.

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10 REQUIREMENTS FOR COMMUNITY COLLECTION CENTERS AND PAINT COLLECTION CENTERS

10.1 Community Collection Centers:

This rule shall apply to Community Collection Centers as defined in Rule 3 that collect hazardous waste, including but not limited to architectural paint. Community Collection Centers may collect only Household Hazardous Waste or hazardous waste from [Conditionally Exempt Small Quantity Generators](#).

A. Authorization:

Community Collection Centers may not accept hazardous waste without having first received a Letter of Authorization from the Department.

B. Registration Fee:

[Community Collection Centers](#) shall submit a registration fee of two thousand dollars (\$2,000.00) with each new registration to obtain a Letter of Authorization to operate a Community Collection Center. The yearly renewal fee for a Letter of Authorization shall be five hundred dollars (\$500).

C. Certification by Generators:

Prior to receiving hazardous waste, [Community Collection Centers](#) shall ensure that the persons dropping off hazardous waste certify in writing their status as either a Household Hazardous Waste Generator or a CESQG. [Community Collection Centers](#) shall maintain these records for at least three years.

D. Recordkeeping:

If hazardous waste is received from a CESQG on a manifest, the [Community Collection Center](#) shall sign and date the manifest as described in § 264.71. For waste received from generators not transported using a manifest, the Community Collection Center shall maintain records including the name and address of the person dropping off the waste as well as the date, description and quantity of the waste. For CESQGs [dropping of waste, other than architectural paint](#), they shall also record the EPA ID number of the person or business dropping off the waste. The Community Collection Center shall keep the documentation described above for a period of at least three years.

E. Generator Status of Community Collection Centers:

1. Community Collection Centers shall not qualify as SQGs or CESQGs.

2. In addition to the specific requirements of this Rule, Community Collection Centers shall comply with [all requirements applicable to large quantity generators in Rule 5 including record keeping and waste shipment](#).

F. Hazardous Waste Fee:

Deleted: Additionally, as explained below, Community Collection Centers must comply with [Record Keeping](#) and [Waste Shipment](#), requirements contained in Rule 5.

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The waiver of the fee for household hazardous waste (R013) shall not apply to waste received by the Community Collection Center from CESQGs with the exception of architectural paint. For all other hazardous waste received by generators, Community Collection Centers are required to pay the Hazardous Waste Generator fee in accordance with Rule 5.5.

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G. Bulking:

Community Collection Centers may not bulk waste by mixing wastes from different generators into one container or tank, with the exception of waste architectural paints and used oil that may be consolidated for shipping purposes.

H. Universal Waste Acceptance:

Community Collection Centers that receive universal waste from CESQGs or from households shall comply with the requirements of Rule 13.5M.

I. Storage Limits:

Community Collection Centers shall not store more than 1,100 gallons (8,800 pounds) of hazardous waste at any time. Community Collection Centers may store waste for up to one year.

J. Shipment of Waste:

Community collection centers may only ship hazardous waste to the following destinations:

1. A designated hazardous waste management facility as per the shipment requirements of Rule 5.
2. Another Community Collection Center for the purposes of consolidation prior to shipment to a designated facility.

K. CESQG and HHW Status of the Waste:

When CESQG or household hazardous waste is received by a Community Collection Center it shall be considered to be generated by the facility. At this point, it shall be fully regulated as hazardous waste generated by a Large Quantity Generator as per Rule 5.

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10.2 Paint Collection Centers:

This rule shall apply to Paint Collection Centers as defined in Rule 3. Paint Collection Centers may only collect hazardous waste in the form of architectural paint that is either Household Hazardous Waste or hazardous waste from Conditionally Exempt Small Quantity Generators. Paint Collection Centers may also handle universal waste in accordance with Rule 13.

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A. Notification:

Paint Collection Centers shall file a Notification on a form provided by the Department. There is no fee for registration of Paint Collection Centers.

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B. Use of a Manifest:

Paint Collection Centers shall track all outgoing shipments of paint waste on either a hazardous waste manifest or a bill of lading. These shipping documents shall be maintained for a minimum of 3 years.

C. Certification by Generators:

Prior to receiving hazardous waste, Paint Collection Centers shall ensure that all generators certify in writing their status as a CESQG. Paint Collection Centers shall maintain these records for at least three years.

D. Recordkeeping:

If hazardous waste is received on a manifest from a CESQG, the Paint Collection Center shall sign and date the manifest as required by 40 CFR 264.71. For waste received from generators not transported using a manifest, the Paint Collection Center shall maintain records including the name and address of the person dropping off the waste as well as the date, description and quantity of the waste. The Paint Collection Centers shall keep the documentation described above for a period of at least three years. Additionally, Paint Collection Centers must handle waste in accordance with generator requirements contained in Rule 5.

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<#>Community Collection Centers shall not qualify as SQGs or CESQGs. ¶
<#>In addition to the specific requirements of this Rule, Community Collection Centers shall comply with the requirements of Rule 5.9. ¶
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E. Hazardous Waste Fee:

Architectural paint waste received by a Paint Collection Center is exempt from the fee. It may be shipped offsite on a bill of lading without payment of the Hazardous Waste Fee.

F. Bulking:

Paint Collection Centers may bulk architectural paints for shipping purposes.

G. Storage Limits:

Paint Collection Centers shall not store more than 1,100 gallons (8,800 pounds) of paint waste. Paint Collection Centers may store waste for up to one year.

L. Shipment of Waste:

Paint collection centers may only ship hazardous waste to the following destinations:

1. A designated hazardous waste management facility as per the shipment requirements of Rule 5.
2. A Community Collection Center authorized by the Department under Rule 10.1
3. Another Paint Collection Center.

11 REQUIREMENTS FOR CIRCUIT BOARD RECYCLING OPERATIONS

11.1 Applicability: This Rule applies to universal waste destination facilities that conduct shredding, crushing, or other size reduction activities of printed circuit boards that are or have been part of used electronics and therefore are universal wastes in Rhode Island. For such facilities, the requirements of this Rule shall be followed instead of the requirements specified in Rule 13.5Q and 40 CFR 273.60. This Rule also applies to any shredding, crushing, or other size reduction activities for any other printed circuit boards that are received for processing.

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11.2 Authorization Requirements: All persons who shall construct, operate or own a Circuit Board Recycling Operation shall first submit a complete application to the Office of Waste Management and obtain a Permit from the Director prior to conducting any such activities on-site.

11.3 Application Requirements: The Permit Application shall include the following items:

- A. A combined application and permit fee of \$10,000 for a new permit and \$5,000 for a renewal.
- B. Documentation demonstrating financial responsibility for liability involving release of hazardous waste;
- C. Documentation that the operation is consistent with local zoning requirements and land use restrictions;
- D. An operating plan that describes the methods and equipment that will be used to process/recycle the circuit boards, to control dusts generated by the activity, to manage and dispose of waste water generated by the process(es) (if applicable), and the final disposition (further reclamation or disposal) of all recycled materials and wastes generated by the activity onsite.
- E. A contingency plan containing all of the information required for Large Quantity Generators as per [Rule 5](#).
- F. A training plan to ensure that employees are thoroughly familiar with the hazards associated with the operation of the recycling equipment, hazards posed by the types of materials being processed and the regulatory requirements that apply to the waste(s) generated at the facility . The training program shall also provide details of proper procedures for waste management and the types and uses of protective equipment necessary to conduct the operation safely.
- G. Liability Insurance. Circuit Board Recycling Operations facilities shall submit proof of liability insurance sufficient to provide coverage of \$1,000,000.00 (one million dollars) per incident.

H. Documentation demonstrating financial assurance for closure to fund the cost estimate for closure including the following items:

1. A closure plan with a detailed description of the activities and schedule that are needed to decontaminate and/or remove the waste at the time of closure.
2. A cost estimate for closure That specifies the estimated cost of closing the facility assuming the quantity of waste at the facility is equal to the maximum allowable capacity. It should also include the respective costs of universal waste inventory disposition, equipment decontamination or removal, laboratory testing, and other relevant costs.
3. A Financial Assurance mechanism that meets the standards for Facilities set forth in § 264.143 with the modification below:
 - (a) Delete paragraphs 264.143(a)(3) through (a)(5) and replace with:

(3) For new facilities, the full amount of the closure cost estimate shall be deposited into the closure trust fund when the fund is established.
 - (b) Delete *After the pay-in period is completed* from paragraph 264.143 (a)(6).

11.4 Permit Issuance: Circuit Board Recycling Permits shall be issued for a period not to exceed five (5) years. A renewal application for the permit shall be received prior to 180 days from the expiration date of the current permit. If a renewal application is received by the Department in a timely manner, the facility can continue to operate under the existing permit pending approval or denial of the renewal by the Department.

11.5 Operating Standards: Permitted Circuit Board Recyclers shall conduct operations in accordance with the following standards:

A. All wastes generated by the recycling process shall be managed in strict compliance with the permit, operating plan and all applicable requirements of these Rules.

B. The facility must be operated in compliance with the requirement of all applicable Federal, State and municipal laws, regulations and ordinances.

C. All mercury switches/relays, nickel-cadmium batteries or lithium batteries shall be removed from circuit boards prior to processing and managed in accordance with the requirements of Rule 5 as Hazardous Waste or Rule 13 as Universal Waste.

D. All incoming items shall be handled in accordance with Rule 13 rules requirement for used electronics.

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E. Circuit boards shall be processed in a manner designed to prevent the release of any universal waste, component of universal waste or hazardous waste to the environment.

F. All processed materials shall be stored in containers that are structurally sound, compatible with the processed material and labeled to identify the contents of the container.

G. Employees shall be trained in accordance with the training plan and thoroughly familiar with the operating plan prior to conducting any work onsite. The facility shall maintain documentation of this training.

H. The facility shall track all incoming and outgoing waste, and retain documentation in accordance with 40 CFR 273.39 (including for items that are not universal waste). The facility also shall retain documentation showing the destination of all outgoing shredded circuit boards and any other wastes.

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I. The facility shall send the shredded circuit boards only for further recycling and any hazardous wastes generated only to a destination facility.

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J. Any hazardous waste generated as a result of the activity that is not or cannot be managed as a universal waste as described above and that is not shredded circuit boards being sent for further recycling must be managed as a hazardous waste in accordance with Rule 5.

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12 RESERVED

13 UNIVERSAL WASTE

13.1 Requirements for Universal Waste:

The wastes listed in this Rule 13 are exempt from regulation under 40 CFR 262 through 270 except as specified in 40 CFR Part 273 and this Rule 13, and therefore are not fully regulated as hazardous waste provided that they are handled in full compliance with the requirements of this Rule 13. The wastes listed in this Rule 13 are subject to regulation under 40 CFR Part 273 and this Rule 13:

- A. Batteries as described in 40 CFR 273.2
- B. Pesticides as described in 40 CFR 273.3
- C. Mercury-containing equipment as described in 40 CFR 273.4.
- D. Lamps as described in 40 CFR 273.5.
- E. Used electronics as described in Rule 13.2,
- F. Silver- containing photo fixing solutions as described in Rule 13.3.

13.2 Applicability –Used Electronics:

The requirements of 40 CFR Part 273 and this Rule 13 apply to persons managing used electronics, as defined in Rule 3 of these Rules, that have become wastes, as defined in Rule 3 of these Rules. Used Electronics wastes shall be managed as universal waste (or hazardous waste) whether or not they exhibit a hazardous characteristic. RIGL 23-24.10, “Electronic Waste Prevention, Reuse and Recycling Act”, bans the disposal of various types of used electronic devices at solid waste facilities.

- A. A used electronic device becomes a waste on the date it is discarded. An unused electronic device becomes a waste on the date the handler decides to discard it.
- B. The requirements of 40 CFR Part 273 do not apply to persons managing the following used electronics:
Used electronics that are not yet wastes under Rule 3 and 40 CFR 261. Rule 13.2(A) describes when used electronics become wastes.

13.3 Applicability – Silver-containing photo fixing solutions:

The requirements of 40 CFR 273 and this Rule 13 apply to persons managing silver-containing photo fixing solutions, as defined in Rule 3 of these Rules, that have become wastes, as defined in Rule 3 of these Rules, when the wastes are hazardous wastes.

- A. A Waste silver-containing photo fixing solution is a hazardous waste if it exhibits one or more of the characteristics identified in 40 CFR part 261, Subpart C. A silver-containing photo fixing solution becomes a waste on

the date it is discarded. An unused silver-containing photo fixing solution becomes a waste on the date the handler decides to discard it.

- B. The requirements of 40 CFR Part 273 do not apply to persons managing the following silver-containing photo fixing solutions:
 - 1. Silver-containing photo fixing solutions that are not yet wastes under 40 CFR 261. Rule 13.3(A) describes when silver-containing photo fixing solutions become wastes.
 - 2. Silver-containing photo fixing solutions that are not hazardous waste. Rule 13.3(A) describes when silver containing photo fixing solutions are hazardous waste.
- C. Other wastes from photo processing operations that exhibit one or more of the characteristics of hazardous waste, including wastes from system cleaning (acid regenerants, system cleaners, and photographic activators (hazardous waste code D002), dichromate based cleaners (hazardous waste code D007), and off-specification chemicals (hazardous waste code D001 and D002), shall be managed as hazardous waste (not universal waste).

13.4 Requirements for Universal Waste Handlers and Transporters:

The following applies to universal waste handlers and universal waste transporters, relative to the universal wastes listed in Rule 13.1:

- A. The requirements of 40 CFR 264 and 40 CFR 265 do not apply, when handling these wastes.
- B. These handlers and transporters are exempt from 40 CFR 268.7 and 268.50, for these hazardous wastes.
- C. These handlers and transporters are not required to obtain a RCRA permit in order to manage these wastes.
- D. These handlers and transporters are subject to regulation under 40 CFR 273 and per the requirements of this rule (Rule 13).
- E. Handlers and transporters that export universal waste are subject to the export requirements of 40 CFR 273.20 (small quantity handlers), 40 CFR 273.40 (large quantity handlers) or 40 CFR 273.56 (transporters) as applicable.

13.5 Standards For Universal Waste Management:

40 CFR Part 273 is incorporated by reference in its entirety, except 273.3(b)(1) relative to disposal of recalled or unused pesticides (since 40 CFR 262.70, the former exemption, is not recognized by the Department), and as otherwise provided in these Rules. (See also definition of "EPA" for portions of the CFR where "EPA" is replaced by "Department").

- A. **40 CFR 273.1 – Scope.** The provisions are incorporated by reference with the following changes to 273.1(a):
 - 1. add “(5) Used electronics as defined in these Rules.”

2. add “(6) silver-containing photo fixing solutions as defined in these Rules.”

B. 40 CFR 273.2 Applicability-Batteries. The provisions are incorporated by reference with the following change:

Add “(d) Exceptions to 40 CFR273.2(b)(3). Waste nickel-cadmium, mercury-oxide, and lead acid dry cell batteries shall be managed as universal waste (or hazardous waste) whether or not they exhibit a hazardous characteristic. The disposal of these wastes at solid waste facilities is prohibited, per the solid waste disposal ban in RIGL 23-60.1, “Dry Cell Battery Control”.

C. 40 CFR 273.4 Applicability- Mercury-Containing Equipment. The provisions are incorporated by reference with the following changes:

1. Delete 40 CFR 273.4(b)(2).
2. Add 40 CFR 273.4(d) to read as follows: “Waste Mercury-containing equipment shall be managed as universal waste (or hazardous waste) whether or not it exhibits a hazardous characteristic. The disposal of these wastes at solid waste facilities is prohibited, per RIGL23-24.9, “Mercury Reduction and Education Act”.

D. 40 CFR 273.5 Applicability- Lamps. The provisions are incorporated by reference with the following changes:

1. Delete 40 CFR 273.5(b)(2).
2. Add 40 CFR 273.5(d) to read as follows: “Waste lamps shall be managed as universal waste (or hazardous waste) whether or not they exhibit a hazardous characteristic. The disposal of these wastes at solid waste facilities is prohibited, except as provided in Rule 13.5(E)(2) (household exemption), per the solid waste disposal ban on lamps in RIGL 23-24.9 “Mercury Reduction and Education Act”.
3. Lamp ballasts containing PCB’s shall be managed as a hazardous waste (See definition of PCB Waste- R007 in Rule 3) in accordance with Rules 5.

E. 40 CFR 273.8– Applicability–household and conditionally exempt small quantity generator waste.

40 CFR 273.8 is not incorporated by reference. Instead, the following provisions shall apply:

1. Persons who are household hazardous waste collection facilities, as described in Rule 5, and who handle wastes of the types described in the “Universal Waste” definition in Rule 3, shall either handle those wastes in compliance with all requirements applicable to hazardous waste generators as provided in Rule 5 or shall handle those wastes as universal wastes per the requirements of this part.

2. Persons who reside in single family or multiple family residences and who generate household waste as defined in 40 CFR 261.4(b)(1) and who:
 - (a) generate and dispose of non-business waste consisting of waste batteries (except for waste nickel-cadmium, mercuric oxide, and lead acid dry cell batteries), waste pesticides, waste lamps, and/or waste silver-containing photo fixing solutions as described in the “Universal Waste” definition in Rule 3 shall either handle those wastes as non-hazardous solid wastes or as universal wastes per the requirements of this part.
 - (b) generate and dispose of waste consisting of certain dry cell batteries (i.e., waste nickel-cadmium, mercuric oxide, and lead acid dry cell batteries), used electronics, and/or waste mercury-containing equipment as described in the “Universal Waste ” definition in Rule 3 shall either dispose of these wastes as universal waste per the requirements of this part or as household hazardous waste (if a household hazardous waste collection program for these types of waste is available in the State). This satisfies the solid waste disposal ban in RIGL 23-60.1, 23-24.10, and 23-24.9. Any wastes of these types generated as part of a business located in a household shall be managed as universal waste or hazardous waste (not household hazardous waste) and therefore the household hazardous waste collection program does not apply to such business wastes.
3. Persons who are conditionally exempt small quantity generators and who:
 - (a) generate waste batteries (except for waste nickel-cadmium, mercuric oxide, and lead acid dry cell batteries), waste pesticides, and/or silver- containing photo fixing solutions as described in the “Universal Waste” definition in Rule 3 shall either handle those wastes in compliance with the requirements of 40 CFR 261.5 or shall handle those wastes as universal wastes per the requirements of this part.
 - (b) generate and dispose of certain waste dry cell batteries (i.e., waste nickel-cadmium, mercuric oxide, or lead acid dry cell batteries), used electronics, waste mercury- containing equipment and/or waste lamps as defined in the “Universal Waste ” definition in Rule 3 shall either dispose of these wastes as hazardous waste or universal waste per the requirements of this part. This satisfies the solid waste disposal ban in RIGL 23-60.1, 23-24.10, and 23-24.9.
4. Persons who commingle regulated universal wastes with wastes of the types described in the “Universal Waste” definition in Rule 3 from households or from Conditionally Exempt Small Quantity Generators, shall handle the commingled wastes as hazardous wastes or universal wastes per the requirements of this part.

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- F. **40 CFR 273.9– Definitions.** The provisions are incorporated by reference with the following changes:
1. Replace the definition of “Large Quantity Handler of Universal Waste” with the Rule 3 definition of “Large Quantity Handler of Universal Waste”.
 2. Replace the definition of “Small Quantity Handler of Universal Waste” with the Rule 3 definition of “Small Quantity Handler of Universal Waste”.
 3. Add to the definition of “Universal Waste” “(5) Used electronics as defined in these Rules.”
 4. Add to the definition of “Universal Waste” “(6) Silver-containing photo fixing solutions as defined in these Rules.”
 5. In the definition of “Destination facility” add the following after the last sentence: “A facility that engages in the disassembly or demanufacturing of used electronics: (1) for the purpose of marketing, reselling, reusing or recycling the components of a used electronic device; (2) without treating the device or any component thereof; and (3) without breaking the cathode ray tube, if any, in any such device, shall be considered a small quantity handler of universal waste or a large quantity handler of universal waste, as appropriate and shall not be considered a destination facility. A facility that shreds, crushes, heats, or otherwise treats a used electronic device or an component thereof, or that breaks the cathode ray tube in any used electronic device, shall be considered a destination facility, except as provided in Rule 13.5H and 13.5M below.”
- G. **40 CFR 273.11 – Prohibitions.** The provisions are incorporated by reference with the following changes:
1. add “(c) Prohibited from shredding, crushing or intentionally breaking universal waste except as provided in Rule H below.”
 2. add “(d) Prohibited from managing a significant number of broken items of universal waste of any given type on any day as universal waste. An insignificant number of items of unintentionally broken waste may be managed as universal waste, provided that they are immediately managed to prevent releases of any universal waste or component of universal waste to the environment, per the requirements of these universal waste regulations.” For the purposes of these regulations, physical breakage of one item or less than 10% of the total items shall be considered insignificant.
- H. **40 CFR 273.13 - Waste Management.** The provisions are incorporated by reference with the following changes:

1. add “(e) Used *electronics*. A small quantity handler of universal waste shall manage used electronics in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
 - (a) Store all used electronics inside a building with a roof and four walls or in a portable storage unit that is completely enclosed and weatherproof, or in the cargo-carrying portion of a truck, such as a trailer. Storage shall be in a manner that prevents used electronics from being exposed to the environment and ensures that all used electronics are handled, stored and transported in a manner that maintains the reuse or recyclability of any such used electronic or component thereof.
 - (b) A small quantity handler of universal waste shall contain any cathode ray tube(s) from a used electronic device and other used electronics that shows evidence of breakage, leakage, spillage, or damage that could cause the release of glass particles or other hazardous constituents under reasonable foreseeable conditions in a container. The container shall be closed, structurally sound, compatible with the contents of the cathode ray tube(s) and other used electronics, and must lack evidence of breakage, leakage, spillage, or damage that could cause the release of glass particles or other hazardous constituents under reasonably foreseeable conditions. Any released glass particles, other constituents, and clean-up residues resulting from the breakage, leakage, spillage, or damage of cathode ray tube(s) or used electronics shall be managed as universal waste or hazardous waste, whether or not they exhibit a hazardous characteristic. The disposal of these wastes at solid waste facilities is prohibited, per the solid waste disposal ban in RIGL 23-24.10, “Electronic Waste Prevention, Reuse and Recycling Act”.
 - (c) A small quantity handler of universal waste may conduct the following activities:
 - (i) Sorting display devices/cathode ray tubes or other used electronics by type.
 - (ii) Managing different types of display devices/cathode ray tubes or other used electronics in the same container.
 - (iii) Testing display devices/cathode ray tubes or other used electronics to determine if they are capable of being returned to service.
 - (iv) Removing cathode ray tubes or other used electronics from display device casings.
 - (v) Disassembling used electronics to separate batteries, circuit boards, or other components for the purpose of marketing, reselling, reusing or recycling such components, provided no treatment is occurring.

- (vi) Receive and handle shredded printed circuit boards that do not contain mercury switches/relays, nickel-cadmium batteries or lithium batteries.
 - (d) A small quantity handler of universal waste may also conduct shredding, crushing, or other size reduction activities of printed circuit boards provided they obtain a Circuit Board Recycling Permit as described in Rule 11 of these Regulations.
 - (e) A small quantity handler of universal waste shall not conduct any of the following activities:
 - (i) Breaking of cathode ray tubes in used electronic devices.
 - (f) A small quantity handler of universal waste may disassemble used electronics provided that the handler:
 - (i) Ensures that used electronics are disassembled in a manner designed to prevent the release of any universal waste or component of universal waste to the environment;
 - (ii) Ensures that the disassembly operations are performed safely by developing and implementing a written procedure detailing how to safely disassemble each used electronic device managed at the facility. This procedure shall include: the type of equipment to be used to disassemble the used electronic device safely, operation and maintenance of equipment, segregation of incompatible wastes and proper waste management practices;
 - (iii) Ensures that a spill clean-up kit is readily available to immediately clean up spills or leaks of the contents of the used electronic device that may occur during disassembly operations;
 - (iv) Segregates and transfers the disassembled electronic components to containers that meet the requirements of Rule 13.5E1(e)(2) above.
 - (v) Ensures that employees are thoroughly familiar with the procedures for disassembling used electronics, proper waste handling, and emergency procedures relevant to their responsibilities during normal facility operations and emergencies and
 - (vi) Maintains a system to ensure compliance with the written disassembling and management procedures.
2. Add “(f) *Universal Waste Silver-containing photo fixing solutions.* A small quantity handler of universal waste shall manage universal waste silver-containing photo fixing solutions in a way that prevents releases of any universal waste or component of universal waste to the environment. The universal waste silver-containing photo fixing solutions shall be contained in one or more of the following:
- (a) A container that *remains* closed, structurally sound, compatible with the silver-containing photo fixing solutions, and that lacks

- evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or
- (b) A container that does not meet the requirements of paragraph (f)(1) of this Rule, provided that the unacceptable container is overpacked in a container that does meet the requirements of paragraph (f)(1) of this Rule; or
- (c) A tank that meets the requirements of 40 CFR part 265 subpart J, except for 40 CFR 265.197(c), 265.200, and 265.201; or
- (d) A transport vehicle or vessel that is closed, structurally sound, compatible with the silver-containing photo fixing solutions, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.”

3. Delete 40 CFR 273.13(c)(4)(iii) and replace with “ (iii) if the mercury, residues, and/or other solid waste is not a characteristic hazardous waste, such waste shall still be handled as universal waste (or hazardous waste). The disposal of these wastes at solid waste facilities is prohibited, per the solid waste disposal ban in RIGL 23-24.9 “Mercury Reduction and Education Act”.”

I. **40 CFR 273.14 – Labeling/markings.** The provisions are incorporated by reference with the following changes:

- 1. add “(f) Used electronic devices or containers of used electronic devices shall be clearly labeled (or clearly marked) as follows:
 - (a) Cathode ray tubes shall be labeled with one of the following phrases: “Universal Waste- Cathode Ray Tube(s)”, “Waste Cathode Ray Tube(s)” or “Used Cathode Ray Tube(s)”.
 - (b) Other used electronic devices (that are not cathode ray tubes) shall be labeled with one of the following phrases: “Universal Waste- “Used Electronic Devices not containing CRTs”.
 - (c) Containers with both cathode ray tubes and other used electronic devices shall be labeled with the following phrase: “Universal Waste- Used Electronic Devices with CRTs”
- 2. add “(g) A container, (or multiple container package unit), tank, transport vehicle or vessel in which used universal waste silver-containing photo fixing solutions as described in Rule 13.3 are contained shall be labeled or marked clearly with either of the phrases “Universal Waste- Silver-Containing Photo Fixing Solution(s)” or “Waste-Silver-Containing Photo Fixing Solution(s)”.”

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J. **40 CFR 273.18 - Off-site shipments.** The provisions are incorporated by reference with the following change:

in paragraph (g) replace "appropriate regional EPA office" and "EPA regional office" with "Department".

- K. **40 CFR 273.31 – Prohibitions.** The provisions are incorporated by reference with the following changes:
1. add “(c) Prohibited from shredding, crushing or intentionally breaking universal waste except as provided in [Rule M](#) (“Waste Management”) below.”
 2. add “(d) Prohibited from managing a significant number of broken items of universal waste of any given type on any day as universal waste. An insignificant number of items of unintentionally broken waste may be managed as universal waste, provided that they are immediately managed to prevent releases of any universal waste or component of universal waste to the environment, per the requirements of these universal waste regulations . For the purposes of these regulations, physical breakage of one item or less than 10% of the total items shall be considered insignificant.”
- L. **CFR 273.32 – Notification.** The provisions are incorporated by reference with the following changes:
1. In 273.32(a)(1), after “ 5000 kilogram storage limit” add “(or the 20,000 kilogram storage limit for used electronics)”
 2. Revise 273.32(b)(4) to read “A list of all types of universal waste managed by the handler (e.g. batteries, pesticides, mercury-containing equipment, lamps, used electronics, and silver-containing photo fixing solutions);
 3. In 273.32(b)(5), after “5000 kg of universal waste” add “(or 20,000 kg of used electronics)”
- M. **CFR 273.33 – Waste Management.** The provisions are incorporated by reference with the following changes:
1. add “(e) *Used electronics.* A large quantity handler of universal waste shall manage used electronics in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
 - (a) Store all used electronics inside a building with a roof and four walls or in a portable storage unit that is completely enclosed and weatherproof, or in the cargo-carrying portion of a truck, such as a trailer. Storage shall be in a manner that prevents used electronics from being exposed to the environment and ensures that all used electronics are handled, stored and transported in a manner that maintains the reuse or the potential to reuse or recycle of any such used electronic or component thereof.

- (b) A large quantity handler of universal waste shall contain any cathode ray tube(s) from a used electronic device and other used electronics that shows evidence of breakage, leakage, spillage, or damage that could cause the release of glass particles or other hazardous constituents under reasonable foreseeable conditions in a container. The container shall be closed, structurally sound, compatible with the contents of the cathode ray tube(s) and other used electronics, and must lack evidence of breakage, leakage, spillage, or damage that could cause the release of glass particles or other hazardous constituents under reasonably foreseeable conditions. Any released glass particles, other constituents, and clean-up residues resulting from the breakage, leakage, spillage, or damage of cathode ray tube(s) or used electronics shall be managed as universal waste (or hazardous waste), whether or not they exhibit a hazardous characteristic. The disposal of these wastes at solid waste facilities is prohibited, per the solid waste disposal ban in RIGL 23-24.10, "Electronic Waste Prevention, Reuse and Recycling Act".
- (c) A large quantity handler of universal waste may conduct the following activities:
 - (i) Sorting display devices/cathode ray tubes or other used electronics by type.
 - (ii) Managing different types of display devices/cathode ray tubes or other used electronics in the same container.
 - (iii) Testing display devices/cathode ray tubes or other used electronics to determine if they are capable of being returned to service.
 - (iv) Removing cathode ray tubes or other used electronics from display device casings.
 - (v) Disassembling used electronics to separate batteries, circuit boards, or other components for the purpose of marketing, reselling, reusing or recycling such components, provided no treatment is occurring.
 - (vi) Receive and handle shredded printed circuit boards that do not contain mercury switches/relays, nickel-cadmium batteries or lithium batteries.
- (d) A large quantity handler of universal waste may also conduct shredding, crushing, or other size reduction activities of printed circuit boards provided they obtain a Circuit Board Recycling Permit as described in Rule 11.
- (e) A large quantity handler of universal waste shall not break cathode ray tubes in used electronic devices.

- (f) A large quantity handler of universal waste may disassemble used electronics provided that the handler:
 - (i) Ensures that used electronics are disassembled in a manner designed to prevent the release of any universal waste or component of universal waste to the environment;
 - (ii) Ensures that the disassembly operations are performed safely by developing and implementing a written procedure detailing how to safely disassemble each used electronic device managed at the facility. This procedure shall include: the type of equipment to be used to disassemble the used electronic device safely, operation and maintenance of equipment, segregation of incompatible wastes and proper waste management practices;
 - (iii) Ensures that a spill clean-up kit is readily available to immediately clean up spills or leaks of the contents of the used electronic device that may occur during disassembly operations;
 - (iv) Segregates and transfers the disassembled electronic components to containers that meet the requirements of Rule 13.5M1(e)(2) above.
 - (v) Ensures that employees are thoroughly familiar with the procedures for disassembling used electronics, proper waste handling, and emergency procedures relevant to their responsibilities during normal facility operations and emergencies and
 - (vi) Maintains a system to ensure compliance with the written disassembling and management procedures.
2. Add “(f) Universal Waste Silver-containing photo fixing solutions. A large quantity handler of universal waste shall manage universal waste silver-containing photo fixing solutions in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste silver-containing photo fixing solutions shall be contained in one or more of the following:
- (a) A container that remains closed, structurally sound compatible with the silver-containing photo fixing solutions, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or
 - (b) A container that does not meet the requirements of paragraph (f)(1) of this Rule, provided that the unacceptable container is overpacked in a container that does meet the requirements of paragraph (f)(1) of this Rule; or
 - (c) A tank that meets the requirements of 40 CFR part 265 subpart j, except for 40 CFR 265.197(c), 265.200, and 265.201; or
 - (d) A transport vehicle or vessel that is closed, structurally sound, compatible with the silver-containing photo fixing solutions, and

that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

3. Delete 40 CFR 273.33(c)(4)(iii) and replace with “ (iii) If the mercury, residues, and/or other solid waste is not a characteristic hazardous waste, such waste shall still be handled as universal waste (or hazardous waste) and not as solid waste. The disposal of these wastes at solid waste facilities is prohibited, per the solid waste disposal ban in RIGL 23-24.9 “Mercury Reduction and Education Act”.”

N. **40 CFR 273.34 – Labeling/markings.** The provisions are incorporated by reference with the following changes:

1. add “(f) Used electronics devices or containers of used electronic devices shall be clearly labeled (or clearly marked) as follows:
 - (a) Cathode ray tubes shall be labeled with one of the following phrases: “Universal Waste- Cathode Ray Tube(s)”, “Waste Cathode Ray Tube(s)” or “Used Cathode Ray Tube(s)”.
 - (b) Other used electronics devices (that are not cathode ray tubes) shall be labeled with one of the following phrases: “Universal Waste- “Used Electronic Devices not containing CRTs”.
2. add “(g) A container, (or multiple container package unit), tank, transport vehicle or vessel that used universal waste silver-containing photo fixing solutions as described in Rule 13.3 are contained shall be labeled or marked clearly with the words “Universal Waste-Silver-Containing Photo Fixing Solution(s)” or “Waste-Silver-Containing Photo Fixing Solution(s);”

O. **40 CFR 273.38 - Off-site shipments.** The provisions are incorporated by reference with the following change:

In paragraph (g) replace "appropriate regional EPA office" and "EPA regional office" with "Department".

P. **40 CFR 273.51 – Prohibitions.** The provisions are incorporated by reference with the following changes:

1. add “(c) Prohibited from shredding, crushing or intentionally breaking universal waste.”
2. add “(d) Prohibited from managing a significant number of broken items of universal waste of any given type in a transportation unit as universal waste. An insignificant number of unintentionally broken waste in a transportation unit may be managed as universal waste, provided that they are immediately managed to prevent releases of any universal waste or component of universal waste to the environment, per the requirements of these universal waste

regulations. ” For the purposes of these regulations, physical breakage of one item or less than 10% of the total items shall be considered insignificant.

- Q. **40 CFR 273.60 – Applicability.** The provisions are incorporated by reference with the following change:
In paragraph (a) after the phrase “of this chapter,” add “to all applicable requirements of Rules 7,8 and 11,”
- R. **40 CFR 273.61 - Off-site shipments.** The provisions are incorporated by reference with the following change:
In paragraph (c) replace "appropriate regional EPA office" and "EPA regional office" with "Department".
- S. **40 CFR 273.80 – Petitions to Include Other Wastes, Under 40 CFR Part 273; General.** The provisions are incorporated by reference with the following changes:
In 273.80(b) and 273.80(c), delete “Administrator” and replace with “Director”.

14 MIXED WASTE

These rules apply to Mixed Waste as defined in Rule 3.

- 14.1** Requirements for Mixed Waste: Mixed Waste shall be subject to these Rules and Regulations and to the Rhode Island Department of Health’s “Rules and Regulations for the Control of Radiation”.
- 14.2** Conditional Exemptions: The provisions of 40 CFR 266 Subpart N are incorporated by reference, relative to the conditional exemptions for low-level mixed waste and the transportation and disposal conditional exemption for eligible NARM waste.

15 USED OIL MANAGEMENT STANDARDS

15.1 Purpose and Applicability

This Rule provides an alternative to managing used oil as hazardous waste under [Rule 5.3](#) (Hazardous Waste Determination); it identifies those materials that may and may not be managed as used oil, and establishes standards for their handling, storage, transport, aggregation, collection, and burning of used oil as fuel. This Rule also establishes management standards for used oil that is reused, sent for reclamation, processed or burned for energy recovery. Used oil, as defined in Rule 3, that is to be reused, reclaimed, processed, re-refined or burned for energy recovery is subject to the requirements of Rule 15. This Rule does not apply to used oil, or material derived from used oil, that is disposed of, sent for disposal or used in a manner constituting disposal, that shall be evaluated to determine if the used oil is subject to regulation as a hazardous waste in accordance with [Rule 5.3](#) (Hazardous Waste Determination). Used oil that does not meet the definition of a hazardous waste and is not managed in accordance with [Rule 15](#) shall be managed as a solid waste in accordance with the applicable regulations.

- A. Used oil that exhibits any of the hazardous waste characteristics identified in Rule 3 or in 40 CFR 261 Subpart C is subject to [Rule 15](#) except that the used oil may be excluded from burning for energy recovery pursuant to Rule 3 and [Rule 15.3E](#).
- B. Mixtures of used oil and hazardous wastes that are Federally listed in 40 CFR 261 Subpart D shall be managed as hazardous waste
 1. Used oil that contains greater than 1,000 ppm of total halogens is presumed to have been mixed with one or more halogenated hazardous wastes listed in 40 CFR 261 Subpart D. Persons may rebut the presumption that the used oil has been mixed with the hazardous waste designated in 40 CFR 261.31 (a) as F001 or F002 by demonstrating through analysis that none of the following halogenated hazardous waste constituents are present in the used oil at a concentration of greater than 100 parts per million: tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, chlorinated fluorocarbons, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, trichlorofluoromethane or 1,1,2-trichloroethane. To rebut the presumption that the used oil has been mixed with any hazardous waste, other than F001 or F002, listed in 40 CFR 261, Subpart D, a person shall demonstrate that the used oil does not contain hazardous waste by having the used oil analyzed in accordance with [Rule 5.3](#) and demonstrating that the used oil does not contain significant concentrations of halogenated hazardous

constituents listed in Appendix VIII of 40 CFR 261. Unless and until such person has rebutted the presumption, a used oil containing more than 1,000 parts per million total halogens shall be considered a hazardous waste and shall be managed as such.

2. The rebuttable presumption set forth in Rule [15.1\(B\)\(1\)](#) does not apply to metal working oils/fluids that contain chlorinated paraffins that are reclaimed/processed under a tolling arrangement as defined in Rule 3. Metal working oils/fluids that are recycled in any other manner are subject to the rebuttable presumption set forth in Rule [15.1\(B\)\(1\)](#)
 3. Used oil contaminated with Chlorofluorocarbons (CFCs) removed from refrigeration units that are destined for reclamation is not subject to the rebuttable presumption set forth in [15.1\(B\)\(1\)](#) above. The rebuttable presumption does apply to used oil contaminated with CFCs from sources other than refrigeration units.
- C. Mixtures of used oil and hazardous waste where the hazardous waste mixed with the used oil is hazardous only because it exhibits the characteristic of ignitability identified in 40 CFR 261.21 are subject to this Rule and may be managed accordingly if the resultant mixture does not exhibit any characteristics of hazardous waste identified in 40 CFR 261 Subpart C.

Mixtures of used oil and ignitable hazardous waste that do not meet the criteria listed in Rule 15.1(C) are not subject to this Rule and shall be managed in accordance with Rule 5.

- D. Materials containing or otherwise contaminated with used oil are not regulated as used oil under this Rule if the used oil has been drained or removed to the extent practicable so that no free flowing liquid is present. Such materials are subject to the waste characterization requirements under [Rule 5.3](#) (Hazardous Waste Determination) and may be subject to additional parts of these Rules if the materials meet the definition of Hazardous Waste. Materials contaminated with used oil that are burned for energy recovery in accordance with Rule 15.3 are regulated under this Rule. Mixtures of used oil and any petroleum based products shall be managed in accordance with Rule 15.
- E. Used automotive engine oil filters that are not terne-plated and were not contaminated by mixtures of used oil and any Federally listed hazardous waste identified in 40 CFR 261 Subpart D are not subject to Rule 15 or Rules 1 through and including 8 and 17 if the filters were gravity hot-drained using one of the following methods:

1. Puncturing the filter anti-drain back valve or the filter dome end and hot draining;
2. Hot-draining and mechanically crushing the filter;
3. Any other equivalent hot draining method that will remove all pourable liquids from the filter; or
4. Cold-draining and crushing using a mechanical, pneumatic, or hydraulic device designed for the purpose of crushing oil filters and effectively removing the oil.

Used automotive engine oil filters that areterne-plated are not subject to Rule 15 or Rules 1 through and including 8 and 17 if the generator processes the filters in accordance with Rule 15.1(E), sends the processed filters out for scrap metal reclamation and documents the recycling of the filters.

All free liquids that are collected as a result of any draining activity shall be properly managed in accordance with Rule 15. Used automotive oil filters that are not fully drained using one of the methods prescribed above may be managed as a material contaminated with used oil in accordance with the requirements of Rule 15.

- F. Materials derived or otherwise reclaimed from used oil that are used in place of new product and are not burned for energy recovery or used in a manner constituting disposal are not used oil, are not hazardous waste and are not solid waste. Materials derived from used oil that are burned for energy recovery are subject to the requirements of Rule 15.3. Materials derived from used oil that are used in a manner constituting disposal are subject to the requirements of Rule 5.
- G. Wastewater contaminated with “De Minimis” quantities of used oil that is discharged in accordance with the Department’s Water Quality Regulations, permits issued by local POTWs and Section 307 or Section 402 of the Clean Water Act is not regulated by this Rule. De Minimis quantities for the purpose of this Rule shall be defined as leaks or drippings from equipment or machinery that enter the wastewater treatment system inadvertently during normal operations or maintenance. Used oil that enters a wastewater treatment system as a result of abnormal manufacturing processes (e.g., pipeline or pump failures) or by direct discharges and any used oil removed from wastewater is subject to Rule 15.
- H. Used oil produced on vessels from shipboard operations is not subject to Rule 15 until it is transported onto shore.
- I. Used oil containing levels of polychlorinated biphenyls (PCBs) that are determined to be below 50 ppm through analytical testing (or by satisfying

the requirements of 40 CFR 761.2) may be managed under Rule 15. Used oil containing PCBs at levels of 50 ppm or greater are hazardous wastes as defined in Rule 3 and shall be managed in accordance with Rules 1-8 and 17.

- J. Household used oil generators are exempt from the provisions of Rule 15. Once household generator used oil is in the possession of a used oil collection center, used oil transporter, used oil burner, or used oil processor/re-refiner, the used oil is subject to regulation under this Rule.
- K. Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products are not subject to the requirements of this Rule.
- L. Mixtures of used oil and fuel or other fuel products and tank bottoms from such mixtures are subject to this Rule.
- M. Used oil burners, used oil generators, used oil transporters, used oil temporary storage facilities, used oil collection centers, used oil aggregation points, used oil processor/re-refiners and used oil marketers while handling used oil may also be subject to federal regulation by the USEPA pursuant to the Code of Federal Regulations (CFR). Used oils containing any quantifiable levels of polychlorinated biphenyls (PCBs) are subject to regulation under 40 CFR 761.20(e). Used oils containing PCBs at levels of 50 ppm or greater are subject to regulation under all of 40 CFR Part 761. The storage of used oil on-site may also be subject to regulation by the USEPA under 40 CFR 112 (SPCC Program).

15.2 Prohibitions:

The following uses or activities are prohibited:

- A. The mixing of hazardous wastes with used oil, except as provided for in Rule 15.1(C);
- B. The use of any used oil for road oiling or dust suppression;
- C. Burning off-specification used oil as defined in Rule 15.3, unless the used oil is generated on-site and burned in used oil burning equipment with a capacity of equal to or less than 500,000 Btu per hour;
- D. Burning used oil for firefighter training;
- E. Management of used oil in anything other than containers or tanks;
- F. Any disposal of used oil to the land or waters of the State;
- G. The disposal of used oil into a subsurface discharge system or Underground Injection Control system (UIC); and
- H. Shipment of used oil to a facility that has not notified the Department of its used oil activity and/or obtained the appropriate Letter of Authorization or

Permit as required by Rule 15; unless the used oil is being managed as a hazardous waste in accordance with the requirements of Rules 5 and 6.

15.3 Burning Used Oil for Energy Recovery:

This Rule applies to owners and operators of used oil burning equipment as defined in Rule 3. Used oil, or any fuel produced by processing used oil, may only be burned at a commercial facility in a space heater, industrial furnace or boiler provided that the used oil burner conducting the burning complies with all of the requirements of this rule. Used Oil Processor/re-refiner facilities that burn small amounts of used oil as a result of processing used oil are not subject to the requirements of Rule 15.3.

- A. Used oil burners that utilize used oil burning equipment with heat input capacity of less than or equal to 500,000 BTU/hr to burn either specification used oil or off-specification used oil shall comply with the following requirements:
 - 1. The used oil burner only burns used oil that is generated on-site by routine facility processes; and
 - 2. The emissions produced by the used oil burning equipment are vented to ambient air outside of any building or structure.
- B. Used oil burners that utilize used oil burning equipment with heat input capacity of less than or equal to 500,000 BTU/hr to burn specification used oil that was not generated on-site shall comply with the following requirements:
 - 1. Prior to burning, the used oil burner has the used oil analyzed by a laboratory, or obtains certified copies of analytical test results conducted by a laboratory from the used oil generator, used oil transporter, or used oil processor/re-refiner to verify that it meets the definition of specification used oil;
 - 2. The used oil burner shall maintain copies of the actual analytical testing results at the facility where the burning activity occurs for a period of at least three years and shall provide such records to the DEM upon request;
 - 3. The used oil burner may aggregate off-specification used oil generated on-site with virgin oil or specification used oil for the purposes of burning used oil on-site provided that the used oil burner first has the mixture of used oil analyzed to ensure that it meets the definition of specification used oil in accordance with this section, but may not aggregate for the purposes of producing specification used oil for off-site shipment;

4. The used oil burner, prior to burning any used oil, shall notify the Department's Office of Air Resources of his/her intent to burn specification used oil in accordance with Rule 15 of the Hazardous Waste Management Regulations. Used oil burners subject to the requirements of Rule 15.3(B) shall obtain an EPA Identification Number by submitting a completed EPA Form 8700-12 to the Department.
- C. Used oil burners that utilize used oil burning equipment with heat inputs of greater than 500,000 BTUs/hr but less than 1,000,000 BTUs/hr to burn used oil shall comply with the following requirements:
1. The used oil burner only burns used oil that meets the definition of specification used oil contained in Rule 15.3;
 2. Prior to burning, the used oil burner has the used oil analyzed by a laboratory, or obtains certified copies of analytical test results conducted by a laboratory from the used oil generator, used oil transporter, or used oil processor/re-refiner to verify that it meets the definition of specification used oil;
 3. The used oil burner shall maintain records of analytical testing at the facility where the burning activity occurs for a period of at least three years and shall provide such records to the DEM upon request;
 4. The used oil burner may aggregate off-specification used oil generated on-site with virgin oil or specification used oil for the purposes of burning used oil on-site provided that the used oil burner first has the mixture of used oil analyzed to ensure that it meets the definition of specification used oil in accordance with this rule, but may not aggregate for the purposes of producing specification used oil for off-site shipment;
 5. The used oil burner, prior to burning any used oil, shall notify the Department's Office of Air Resources of his/her intent to burn specification used oil in accordance with Rule 15 of the Hazardous Waste Management Regulations. Used oil burners subject to the requirements of Rule 15.3(C) shall obtain an EPA Identification Number by submitting a completed EPA Form 8700-12 to the Department.
- D. Used oil burners that utilize used oil burning equipment with heat inputs of greater than or equal to 1,000,000 BTUs/hr to burn used oil shall comply with the following requirements:
1. The used oil burner only burns used oil that meets the definition of specification used oil contained in these regulations;
 2. Prior to burning the used oil burner has the used oil analyzed by a laboratory, or obtains certified copies of analytical test results conducted by a laboratory from the generator, transporter or

processor, to verify that it meets the definition of specification used oil;

3. The used oil burner shall maintain records of analytical testing at the facility where the burning activity occurs for a period of at least three years and shall provide such records to the Department upon request;
 4. The used oil burner may aggregate off-specification used oil generated on-site with virgin oil or specification used oil for the purposes of burning used oil on-site provided that the used oil burner first has the mixture of used oil analyzed to ensure that it meets the definition of specification used oil in accordance with this rule, but may not aggregate for the purposes of producing specification used oil for off-site shipment;
 5. The used oil burner shall obtain written approval for such activity from the Department's Office of Air Resources pursuant to its Air Pollution Control Regulations prior to burning used oil. Used oil burners subject to the requirements of Rule 15.3(D) shall obtain an EPA Identification Number by submitting a completed EPA Form 8700-12 to the Department.
- E. Specification used oil shall meet the limits established in Table 2 below. Used oil burners, used oil generators, used oil transporters, used oil collection centers, used oil aggregation points, used oil processor/re-refiners and used oil marketers shall conduct the analytical test methods listed in Table 2 below in order to demonstrate that their used oil meets the definition of specification used oil. Alternate test methods may be used provided the person, prior to testing, documents in writing that the test method to be used is approved by the EPA.

| Table 2 | | |
|----------------------------------|---|--|
| Constituent/ property | Allowable levels (using Column C test methods) | Test Methods |
| Arsenic | 5 ppm maximum | EPA Methods 7060A, 7061A, 7062, 6010B or 6020 |
| Cadmium | 2 ppm maximum | EPA Methods 7130, 7131A, 6010B, or 6020 |
| Chromium | 10 ppm maximum | EPA Methods 7190, 7191, 6010B, or 6020 |
| Lead | 100 ppm maximum | EPA Methods 7420, 7421, 6010B, or 6020 |
| Polychlorinated biphenyls (PCBs) | <2 ppm | ASTM Method 608/8081 (see Rule 15.3(E)(3)) |
| Flash Point | 100 Degrees F minimum | EPA Methods 1010 or 1020A |
| Total Halogens | 1,000 ppm maximum (see Rule 15.3(E)(1)) | EPA Methods 9075, 9076, 9077, 5050/9056, 5050/9253, or ASTM Method D808-95 |

1. Used oil that contains greater than 1,000 ppm total halogens is presumed to be a hazardous waste and is subject to the rebuttable presumption set forth in Rule 15.1(B)(1). If the used oil burner successfully demonstrates that the halogens contained in the used oil are not listed in 40 CFR 261 Subpart D, then the allowable level of total halogens will be a maximum of 4,000 ppm.
 2. Test Methods identified in Table 2 as EPA Methods shall mean the test method as described in EPA Publication SW-846, "Test Methods for Evaluating Solid Waste-Physical/Chemical Methods, Edition III".
- F. Used oil burners are subject to any applicable sections of the *Oil Pollution Control Regulations* and the *Regulations for Underground Storage Facilities Used For Petroleum Products and Hazardous Materials* and

shall also comply with all of the following storage and handling requirements:

1. Storage Units. Used oil burners shall not store used oil in units other than tanks and containers.
2. Condition of Storage Units. Containers and aboveground storage tanks used to store used oil on-site shall be:
 - (a) In good condition and free of severe rusting, corrosion or structural defects. In the event that a container or aboveground storage tank has deteriorated to a point at which the container or tank threatens to leak, the used oil burner shall transfer the used oil from the failing storage unit to a container or above ground storage tank that is in good condition;
 - (b) Liquid tight with no visible leaks.
3. Secondary Containment for Containers and Aboveground Tanks. Containers and aboveground tanks used to store used oil shall be equipped with a secondary containment feature that at a minimum has the following:
 - (a) An impervious floor or bottom covering the entire storage area; and
 - (b) Dikes, berms or walls capable of containing a spill or release; and
 - (c) A capacity equivalent to a minimum of 100% of the volume of used oil stored at the facility; and
 - (d) The entire system shall be impervious to used oil to prevent a release; or
 - (e) An equivalent containment system may be substituted if prior approval is obtained from the Director.
4. Storage in Underground Storage Tanks (USTs). Used oil burners that store used oil in USTs shall do so in accordance with the *Regulations for Underground Storage Facilities Used For Petroleum Products and Hazardous Materials*.
5. Exterior Storage. Used oil burners that store used oil in containers and/or aboveground tanks outdoors shall either construct the storage area with a means to prevent the accumulation of stormwater in the secondary containment device; or obtain a Stormwater Permit from the Department's Office of Water Resources prior to the construction of the storage area.
6. Labeling. Containers and aboveground storage tanks used to store used oil on-site shall be clearly and permanently marked with the words "Used Oil". Fill pipes for underground storage tanks used to store used oil at a used oil burner's facility shall be clearly marked with the words "Used Oil". Markings for USTs shall comply with the

requirements of the *Rules and Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials*.

7. Response to releases. Upon detection of a release of used oil a used oil burner shall perform the following:
 - (a) Comply with the requirements of the *Oil Pollution Control Regulations*, the *Regulations for Underground Storage Facilities Used For Petroleum Products and Hazardous Materials* and all other applicable Federal, State and Municipal Statutes, Rules and Regulations relating to the release and handling of oil/pollutants;
 - (b) Take immediate steps to stop the release;
 - (c) Contain all of the released used oil;
 - (d) Clean up and properly manage the used oil and any other materials that were contaminated with used oil;
 - (e) Repair or replace any leaking or damaged storage units; and
 - (f) Immediately notify the Department's Emergency Response Program (at 222-1360 or after hours at 222-3070), the local authorities and, if required by 49 CFR 171.15, notify the National Response Center.
8. Tracking. Used oil burners who receive used oil from off-site shall keep a record of each shipment of used oil for a period of at least three years. This record shall contain at least the following information:
 - (a) Name, address and EPA Identification number, if applicable, of the used oil generator or used oil processor/re-refiner that generated the used oil;
 - (b) The name, address and EPA Identification number of the used oil transporter who delivered the used oil;
 - (c) Quantity of used oil received;
 - (d) Date of shipment or delivery;
 - (e) A cross-reference to the record of the used oil analysis or other information used to make the determination that the used oil meets the definition of specification used oil prior to burning.
- G. Management of Residues. Used oil burners who generate residues from the storage or burning of used oil shall manage the residues in compliance with these Rules.

15.4 Used Oil Generator Standards

Used oil generators are subject to the requirements of this Rule. Household used oil generators are not subject to the requirements of this rule. Once household used oil is accepted by a used oil collection center the used oil is subject to regulation under this Rule. The owner or operator of vessels and the person removing or accepting used oil from the vessel are co-generators of the used oil and both are responsible for managing the used oil in compliance with this Rule once the used oil is transported ashore. The co-generators may decide which of them will fulfill the requirements of this Rule. Used oil generators shall store used oil on-site in containers, aboveground storage tanks or in underground storage tanks only provided that they comply with the following requirements:

- A. Container Storage. Used oil generators that store used oil in containers shall do so in accordance with the following requirements:
 1. The amount of used oil stored on-site by a used oil generator shall not exceed 1,320 gallons (equivalent to twenty-four 55 gallon drums) unless the used oil generator:
 - (a) Prepares a contingency plan that satisfies all of the requirements of Rule 5 and maintains the plan on-site for use in case of a fire spill or emergency;
 - (b) Does not store the excess used oil (amount greater than 1,320 gallons) on-site for greater than 180 days; and
 - (c) Marks the containers holding the excess used oil with the initial date upon which the excess used oil began accumulating.
 2. Containers holding used oil shall be in good condition and free of rusting or structural defects that threaten the integrity of the container. In the event that a container deteriorates and begins to leak the generator shall transfer the used oil to a container that is in good condition;
 3. Containers holding used oil shall be clearly marked with the words "Used Oil"; and
 4. Containers of used oil that are stored outside the facility shall be placed on an impervious surface under a roofed structure and protected from precipitation and flooding.
 5. Containers shall be kept closed except when adding or removing used oil.
- B. Storage in Aboveground Storage Tanks (ASTs). Generators that store used oil in ASTs shall do so in accordance with the following requirements:
 1. ASTs used by used oil generators to store used oil shall be registered with the Department. AST's shall, follow the management standards

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outlined in Section 10 of the Department's Oil Pollution Control Regulations;

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2. Aboveground storage tanks holding used oil shall be permanently marked with the words "Used Oil"; and
 3. Aboveground storage tanks holding used oil shall be kept closed at all times, unless adding or removing used oil.
- C. Storage in Underground Storage Tanks (USTs). Used oil generators that store used oil in USTs shall do so in accordance with the following requirements:
1. Underground storage tanks used for storing used oil shall be registered with the Department and managed in accordance with the *Regulations for Underground Storage Facilities Used For Petroleum Products and Hazardous Materials*; and
 2. Underground storage tanks holding used oil shall have the fill pipe marked or labeled to clearly indicate used oil storage.
- D. Response to Used Oil Releases. Used oil generators shall maintain an adequate volume of spill control equipment on-site to contain and clean up the entire volume of used oil stored on-site and upon detection of a release of used oil shall:
1. Take immediate steps to stop and control the release;
 2. Clean up, contain and properly manage the used oil and other resultant wastes;
 3. Repair or replace all damaged or leaking containers or tanks prior to returning them to service;
 4. Notify the Department's Emergency Response Program (at 222-1360 or after hours at 222-3070); the local authorities and, if required by 49 CFR 171.15, notify the National Response Center; and
 5. Comply with the requirements of the Oil Pollution Control Regulations, Regulations for *Underground Storage Facilities Used For Petroleum Products and Hazardous Materials* and all other applicable Federal, State and Municipal Rules and Regulations relating to the release and handling of spilled or released used oil.
- E. Processing of Used Oil. Except as provided in rule (E) (1) through (5) below; used oil generators that process or re-refine used oil are subject to the requirements of Rule 15.8. Used oil generators may conduct the following activities provided that the used oil is not sent off-site for burning as specification used oil:
1. Filtering, cleaning or otherwise reconditioning used oil before returning it for reuse by the generator;

2. Separating used oil from wastewater generated on-site to make the wastewater suitable for discharge in accordance with a permit issued by a local Publicly Owned Treatment Works (POTWs), the Department's Water Quality Regulations and Section 307 or 402 of the Clean Water Act;
 3. Using oil mist collectors to remove used oil from the in-plant air to make the air in the plant suitable for continued recirculation;
 4. Draining or otherwise removing used oil from materials containing or otherwise contaminated with used oil in order to remove the oil to the extent practicable pursuant to Rule 15.1(D); and
 5. Filtering, separating or otherwise reconditioning used oil before burning it on-site in a space heater in accordance with Rule 15.4 (F).
- F. Burning of used oil on-site. Used oil generators may burn used oil on-site in space heaters in accordance with the provisions of Rule 15.3.
- G. Off-site shipments. Except as provided in rules (1) and (2) below, used oil generators shall ensure that their used oil is shipped off-site by a used oil transporter who is permitted by the Department in accordance with Rule 15.7 and Rule 6.
1. Self-transportation. A used oil generator of used oil may transport used oil generated on-site without complying with the transporter requirements contained in Rule 15.7, provided that:
 - (a) The used oil is transported in a vehicle owned by the used oil generator or a vehicle owned by an employee of the used oil generator;
 - (b) Not more than 55 gallons of used oil is transported at any time;
 - (c) Containers used to transport used oil shall meet USDOT standards and be USDOT approved; and
 - (d) The used oil is transported to an aggregation point as defined in Rule 3.
 2. Tolling arrangements. Used oil generators may arrange for used oil to be transported by a used oil transporter that does not have an EPA identification number if the used oil is reclaimed under a contractual agreement pursuant to which reclaimed oil is returned by the used oil processor/re-refiner to the used oil generator for use as a lubricant, cutting oil or coolant. The contract (known as a "tolling arrangement") shall indicate the following:
 - (a) The type of used oil and the frequency of shipments;
 - (b) That the vehicle used to transport the used oil to the processing/re-refining facility and to deliver the recycled used oil

back to the used oil generator is owned and operated by the used oil processor/re-refiner; and

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

3. Tracking. Used oil generators shall keep a record of each used oil shipment sent off-site for processing or burning for a period of at least three years that shall include the following:

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

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

(c) The quantity of used oil shipped;

(d) The date the used oil was received by the used oil transporter or used oil processor/re-refiner; and

(e) The name and signature of an agent of the used oil generator, used oil transporter or used oil processor/re-refiner that provided the used oil for transport.

H. Service Companies. Companies that service oil-fired furnaces that heat buildings may self-transport quantities of used oil not greater than 5 gallons generated by their service activity back to their facility in accordance with the following requirements:

1. The used oil shall be placed in a closed container;

2. The container shall be marked with the words "Used Oil";

3. The vehicle used for the transportation shall have adequate spill control material in the vehicle at all times;

4. The used oil shall be transferred to an appropriate storage container or tank upon return to the company's place of business;

5. The company shall be considered to be the generator of the used oil and shall manage the used oil in accordance with all of the applicable requirements of Rule 15.

I. The rebuttable presumption contained in Rule 15.1(B) applies to used oil generated and managed by used oil generators.

15.5 Used Oil Aggregation Points:

A. Applicability. This rule applies to owners or operators of all used oil aggregation points as defined in Rule 3.

- B. Used Oil Aggregation Point requirements. Used oil generators may consolidate used oil from multiple facilities that are owned and operated by their company at used oil aggregation points for storage purposes prior to shipping off-site provided that they comply with all of the used oil generator requirements contained in Rule 15.4.
- C. Transportation. Owners and operators of used oil aggregation points may transport used oil without a permit from the point of generation to used oil aggregation points in shipments of not more than 55 gallons at one time in accordance with the requirements of Rule 15.4 (G)(1).

15.6 Used Oil Collection Centers

- A. Applicability. This rule applies to owners or operators of used oil collection centers as defined in Rule 3.
- B. Persons who own or operate a used oil collection center shall obtain an EPA Identification Number and notify the Department of such activity and by submitting a completed Notification of Regulated Waste Activity form (EPA Form 8700-12).
- C. Used Oil Collection Center requirements. Owners and operators of used oil collection centers shall comply with all of the used oil generator requirements contained in Rule 15.4.
- D. Receiving Used Oil. Used oil collection centers may accept household used oil only. Used oil collection centers that receive used oil that does not meet the definition of a household used oil are considered used oil processor/re-refining facilities and are subject to the requirements of Rule 15.8.

15.7 Used Oil Transporter and Temporary Storage Facility Standards

- A. Applicability. This Rule shall apply to used oil transporters as defined in Rule 3. Used oil transporters who import or export used oil are subject to this Rule while the used oil is within the State of Rhode Island.
- B. Exceptions. The following persons and activities are not subject to the requirements of this Rule:
 - 1. On-site transportation of used oil by a used oil generator or the owner or operator of the facility;
 - 2. Used oil generators who transport their used oil to aggregation points that are owned and operated by the used oil generator in shipments of not more than 55 gallons in accordance with the requirements of Rule 15.4(G)(1);
 - 3. Transportation of household used oil to a used oil collection center by a household used oil generator.
- C. Transporter Restriction.

1. Used oil transporters may not consolidate or aggregate loads of used oil at their facility unless they comply with the requirements of Rule 15.7(H) and may not process or re-refine used oil unless they comply with Rule 15.8;
 2. Transportation units used to transport hazardous waste shall be properly decontaminated in accordance with [Rule 6.10](#) before transporting used oil; and
 3. Used oil transporters that direct a shipment of specification used oil to a used oil burner or first claim that the used oil meets the requirements for specification used oil shall be subject to the requirements of [Rule 15.9](#).
- D. Permit Requirements. Transporters of used oil shall:
1. Obtain an EPA Identification Number by submitting to the Department a completed Notification of Regulated Waste Activity form (EPA form 8700-12); and
 2. Obtain a permit to transport used oil in accordance with the requirements of the [Rule 6.2](#), unless the transporter already possesses a valid permit issued by the Department for the transportation of hazardous waste. A separate permit to transport used oil is not required if the transporter already has a permit issued by the DEM to transport hazardous waste.
- E. Liability Insurance. Used oil transporters shall maintain liability insurance, including the hazardous material rider (MCS 90) as specified in 49 CFR 387.7(d), sufficient to provide coverage of \$1,000,000.00 (one million dollars) per incident.
- F. Used Oil Analysis. Prior to transporting used oil to a used oil burner or a used oil processor/re-refiner facility or storing used oil at a used oil temporary storage facility, the used oil transporter shall determine if the used oil has a total halogen content of greater than 1,000 ppm. This determination is made by testing the used oil or applying product knowledge of the materials in use and the process that generated the used oil. In the event that the used oil has a total halogen content greater than or equal to 1,000 ppm, the used oil will be presumed to have been mixed with a halogenated hazardous waste. In accordance with Rule 15.1(B) the transporter may rebut this presumption. The rebuttable presumption does not apply to metal working oils/fluids containing used oils contaminated with chlorinated paraffins and chlorofluorocarbons that are managed in accordance with Rule 15.1(B). The used oil transporter shall maintain records of all analytical testing or determinations made based on product knowledge for a period of at least three (3) years. The used oil transporter may use analytical data or written documentation demonstrating product

knowledge obtained from the used oil generator when making a determination regarding the status of a shipment of used oil.

G. Used Oil Transportation.

1. A used oil transporter shall deliver shipments of used oil to only the following:
 - (a) Another used oil transporter, provided that the transfer occurs at an approved used oil temporary storage or permitted hazardous waste treatment, storage and disposal facility and the other used oil transporter has obtained a permit from the Department and an EPA Identification Number;
 - (b) If handling household used oil, a used oil collection facility that has obtained an EPA Identification Number;
 - (c) A used oil processing/re-refining facility that has obtained an EPA Identification Number; or
 - (d) A used oil burner's facility that has obtained an EPA Identification Number.
2. Used Oil Spills and Releases. In the event of a spill or release of used oil the transporter shall:
 - (a) Take immediate steps to stop and contain the release;
 - (b) Immediately notify the Department's Emergency Response Program (at 222-1360 or after hours at 222-3070), the proper local authorities, and if required by 49 CFR 171.15 and/or 49 CFR 403.12(f), notify the National Response Center, and for transporting over water give notice as required by 33 CFR 153.203;
 - (c) Provide a written report to the Department within ten (10) days of the incident detailing the steps that were taken to remediate the release and provide a written report to the USDOT, as required by 49 CFR 171.16; and
 - (d) Clean up and properly dispose of any used oil that was discharged and any materials contaminated with the used oil.
 - (e) In emergency situations, removal of used oil and materials contaminated with used oil may be conducted by a used oil transporter that does not have an EPA Identification Number, if so authorized by the Department.
3. Tracking.

- (a) Used oil transporters shall keep a record of each used oil shipment accepted for transport for a period of at least three years that shall include the following:
 - (i) The name and address of the used oil generator, used oil transporter or used oil processor/re-refiner who provided the used oil for transport;
 - (ii) The EPA Identification Number (if applicable) of the used oil generator, used oil transporter or used oil processor/re-refiner who provided the used oil for transport;
 - (iii) The quantity of used oil accepted;
 - (iv) The date of acceptance; and
 - (v) The name and signature of an agent of the used oil generator, used oil transporter or used oil re-refiner who provided the used oil for transport.
 - (b) Deliveries. Used oil transporters shall keep a record of each shipment of used oil that is delivered to another used oil transporter, used oil processor/re-refiner, or used oil burner that shall include:
 - (i) The name and address of the receiving facility or used oil transporter;
 - (ii) The EPA Identification number of the receiving facility or used oil transporter;
 - (iii) The quantity of used oil delivered;
 - (iv) The date of the delivery;
 - (v) The name and signature, dated upon receipt of the used oil, of an agent of the receiving facility or used oil transporter.
 - (vi) All records generated by the transportation of used oil shall be retained by the transporter for a period of at least three years.
- H. Used Oil Temporary Storage Facilities. Used oil transporters may store used oil at their facility for not more than thirty-five days prior to transporting it to a regulated used oil facility provided that they first obtain written authorization from the Director. This Rule shall not apply to used oil stored on a permitted transportation unit for less than seventy-two hours prior to off-site transportation, provided that the used oil is not transferred off the transportation unit while in storage at the facility.
- 1. Applicability. This Rule applies to used oil temporary storage facilities where shipments of used oil are stored on-site for less than

35 days. Used oil temporary storage facilities that store used oil for more than 35 days are subject to the requirements of Rule 15.8.

2. Authorization Requirements. All persons who shall construct, substantially alter, operate or own a used oil temporary storage facility shall first submit a complete application to the Office of Waste Management and obtain a Letter of Authorization from the Director prior to conducting any such activities on-site.
3. Closure Plan and Financial Requirements. Owners or operators of used oil temporary storage facilities shall develop a closure plan, complete with a cost estimate for closing down their facility, and submit this plan along with an application for Authorization as defined in Rule 15.7(H)(5) below. Owners or operators shall document their financial ability to complete the closure plan equivalent to the cost estimate contained within the closure plan. If the owner or operator fails to satisfy these requirements the Director may deny their Application for Authorization.
4. Operating a used oil temporary storage facility without a Letter of Authorization or a renewal of authorization is prohibited.
5. Application Specifications. All applications for Authorization shall contain at least the following information:
 - (a) The location of the facility, including the Assessor's Plat and Lot numbers;
 - (b) The name and address of the property owner and operator of the Facility;
 - (c) A complete description of the used oil transfer and storage operations at the facility;
 - (d) A site plan depicting the Facility's floor plan, yard layout, drainage system and storage location(s).
 - (e) A complete list of all pollution control and safety equipment to be utilized or maintained on-site.
 - (f) A copy of the applicant's liability insurance policy for the Facility; and
 - (g) The facility's closure cost estimate and financial assurance mechanism.
6. Application Fees. An application fee of six thousand dollars (\$6,000.00) shall be submitted with each new application for a Letter of Authorization to operate a used oil temporary storage facility.
7. Authorization Period. Each Letter of Authorization shall be valid for a period of not more than three (3) years from the date of issuance.
8. Expiration of Authorization/Renewal of Authorization. At least ninety (90) days before the end of the authorization period specified

above, the owner/operator may submit a renewal application in accordance with the requirements of this Rule in order to renew its Authorization to operate a used oil temporary storage facility. This application shall include all of the information required in Rule 15.7 (H) and a renewal application review fee of three thousand (\$3,000.00) dollars.

9. Posting. Any Letter of Authorization issued hereunder shall be maintained on the Facility and posted in a conspicuous location.
10. Change of Ownership or Location. Changes in ownership, administration or location of used oil temporary storage facilities are subject to the following requirements:
 - (a) The Director shall be notified in writing thirty days prior to a change in ownership of the facility or legal entity operating the facility or location or discontinuance of services;
 - (b) A Letter of Authorization shall immediately become void and shall be returned to the Director upon change in location of any facility;
 - (c) A Letter of Authorization is voidable at the sole discretion of the Department whenever there is any sale of the facility or change in ownership of the property of the legal entity operating the facility. A new entity, prior to the commencing of operation of the facility, shall satisfy the Director of its ability to safely operate the facility, as well as its financial ability to operate and close said facility. This demonstration to the Director by the new entity shall include a proposed date for the transfer of the Letter of Authorization, liability insurance coverage and any other information that the Director may request. After a review of this information, the Director shall either approve or deny the transfer of the Letter of Authorization;
 - (d) The original operator shall remain fully liable for the operation of the facility under the terms of the Authorization Letter and applicable regulations until the Director transfers the Authorization to the new owner/operator.
11. The Director may revoke or suspend a Letter of Authorization in the event that a determination is made by the Director that the facility is not being operated in a manner that is consistent with these Regulations or the Letter of Authorization.
12. Used oil temporary storage facilities shall comply with the applicable sections of the used oil generator requirements contained in Rule 15.4(A), (B), (C) and (D).

13. Storage Units. Owners or operators of used oil temporary storage facilities may not store used oil in units other than tanks and containers.
14. Condition of Storage Units. Containers and aboveground storage tanks used to store used oil at used oil temporary storage facilities shall be:
 - (a) In good condition and free of severe rusting, corrosion or structural defects. In the event that a container deteriorates and begins to leak the generator shall transfer the used oil to a container that is in good condition;
 - (b) Liquid tight with no visible leaks;
 - (c) Kept closed except when adding or removing used oil.
15. Secondary Containment for Containers and Aboveground Storage Tanks (ASTs). Containers and ASTs used to store used oil shall be equipped with a secondary containment feature that at a minimum has the following:
 - (a) An impervious floor or bottom covering the entire storage area; and
 - (b) Dikes, berms or walls capable of containing a spill or release; and
 - (c) A capacity equivalent to a minimum of 100% of the volume of used oil stored in the containers at the facility; and
 - (d) The entire system shall be impervious to used oil to prevent a release; or
 - (e) An equivalent containment system may be substituted if prior approval is obtained from the Director.
16. Exterior Storage. Owners and operators of used oil temporary storage facilities that store used oil in containers and/or aboveground tanks outdoors shall either construct the storage area with a means to prevent the accumulation of stormwater in the secondary containment device; or obtain a Stormwater Permit from the Department's Office of Water Resources prior to the construction of the storage area.
17. Labeling. Containers and aboveground storage tanks used to store used oil at used oil temporary storage facilities shall be clearly and permanently marked with the words "Used Oil". Fill pipes for underground storage tanks used to store used oil at used oil temporary storage facilities shall be clearly marked with the words "Used Oil". Markings for USTs shall comply with the requirements of the *Rules and Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials*.

18. Response to releases. Upon detection of a release of used oil, the owner or operator of a used oil temporary storage facility shall perform the following:
 - (a) Take immediate steps to stop the release;
 - (b) Contain all of the released used oil;
 - (c) Clean up and properly manage the used oil and any other materials that were contaminated with used oil;
 - (d) Repair or replace any leaking or damaged storage units prior to returning them to service; and
 - (e) Immediately notify the Department's Emergency Response Program (at 222-1360 or after hours at 222-3070), the local authorities and, if required by 49 CFR 171.15, notify the National Response Center.
 - (f) Comply as applicable with the requirements of the Oil Pollution Control Regulations, Rules and Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials and all other applicable Federal, State and Municipal Rules and Regulations relating to the release and handling of spilled or released used oil.
19. Tracking.

Owners or operators of temporary storage facilities shall keep a written log of each used oil shipment received for temporary storage at the facility and of each off-site shipment of used oil from the facility for a period of at least three years. The owner or operator shall also reconcile the incoming and outgoing shipments of used oil every thirty five (35) days on the written log in order to demonstrate that used oil is not being stored for greater than the allowed thirty five (35) day time period. The written logs shall be provided to the Department upon request.

 - I. Management of residues. Used oil transporters and temporary storage facilities who generate residues from the storage or transportation of used oil shall manage them in compliance with Rule 15.1(F).

15.8 Used Oil Processor and Re-Refiner Standards

- A. Applicability. The requirements of this Rule apply to owners and operators of facilities that process used oil as defined in Rule 3.
 1. The requirements of Rule 15.8 do not apply to:
 - (a) Incidental processing that occurs during transport (e.g., settling and water separation);

- (b) Used oil removed from electrical transformers or turbines and filtered by the used oil transporter prior to being returned to its original use;
 - (c) Used oil generators that conduct incidental processing in accordance with Rule 15.4(E); or
 - (d) Used oil burners that conduct incidental processing operations during the normal course of used oil management prior to burning or that aggregate off-specification used oil with virgin or specification used oil for the purposes of burning.
2. Used oil processors/re-refiners are subject to other applicable Rules as follows:
- (a) Processors/re-refiners who generate used oil shall comply with the requirements of Rule 15.4;
 - (b) Processors/re-refiners who transport used oil shall also comply with the requirements of Rule 15.7;
 - (c) Processors/re-refiners who burn used oil for energy recovery shall also comply with the requirements of Rule 15.3;
 - (d) Processors/re-refiners who direct a shipment of used oil to a used oil burner or first make the claim that used oil meets the requirements of specification used oil shall also comply with the requirements of Rule 15.9.
- B. Permit Requirement. All persons who shall construct, substantially alter, operate or own a used oil processing or re-refining facility shall first obtain a permit from the Director prior to conducting any such activities. Operating a used oil processor/re-refiner facility without a permit is prohibited.
- C. Liability Insurance. Owners or operators of used oil processor/re-refiner facilities shall maintain liability insurance sufficient to provide coverage of \$1,000,000.00 (one million dollars) per incident.
- D. Closure Plan and Financial Requirements. Owners or operators of used oil processor/re-refiner facilities shall submit to the Department's Office of Waste Management a closure plan, complete with a cost estimate for closure and cleanup of the facility, along with an application for a permit as set forth in Rule 15.8 herein. Owners or operators shall also include a financial assurance mechanism demonstrating the financial ability of the applicant to fund the closure cost estimate contained in the closure plan. If the owner or operator fails to satisfy each of these requirements the Director may deny their application for a permit.

- E. Application Specifications. All applications for a permit shall specify the following:
1. The location of the facility including the Assessor's Plat and Lot numbers;
 2. The name and address of the owner and operator of the facility;
 3. A complete description of the operations at the facility subject to the permit with specific statements of operational limitations and/or capacity limitations;
 4. A complete description of the types of used oil that will be stored on-site and the processing and or recycling activities that will be conducted on-site;
 5. A statement detailing any reporting or monitoring requirements that the owner/operator will conduct to ensure that the facility will be operated and maintained in compliance with these Regulations;
 6. A site plan depicting the Facility's floor plan, yard layout, drainage system and storage location(s);
 7. A complete list of all pollution control and safety equipment to be utilized or maintained on-site; and
 8. A complete description of the applicant's financial ability to safely operate, and maintain the Facility.
- F. Fees. The application fee for a permit shall be submitted with the application and shall be ten thousand dollars (\$10,000.00) for the issuance of a new permit and five thousand dollars (\$5,000.00) for the renewal of a permit.
- G. Permit Posting. Any permit issued hereunder shall be posted in a conspicuous location, maintained on-site at the subject facility and be made available for review by the Department personnel upon request.
- H. Issuance, Denial, Revocation or Suspension of Permits. The Director is authorized by R.I.G.L. 23-19.1-10 to issue, deny, revoke, or suspend a permit in accordance with these rules and regulations. The DEM shall comply with the procedures set forth in Rule 7 for processing these applications and shall substitute the words "used oil processing/re-refining facility" for the words "hazardous waste management facility" as it is referred to in Rule 7.
- I. Application Requirements. Applications submitted to the Department for the construction or modification of a facility that processes or re-refines used oil shall contain all of the applicable elements required in Rule 7.
- J. Duration and Renewal of Permits. Permits for used oil processing or re-refining facilities shall be issued for a period not to exceed five (5) years and may be extended or renewed by the Director for a period of not more

than five (5) years. A new permit application is required at the end of the ten year period and shall be submitted at least one hundred eighty (180) days prior to the expiration of the existing permit. Permit renewal applications will be processed in accordance with Rule 15.8 (H) and (I).

- K. Notification. Used oil processors and re-refiners shall also notify the Department of such activity and obtain an EPA Identification Number by submitting to the Department a Notification of Regulated Waste Activity Form (EPA Form 8700-12).
- L. General Facility Standards. Owners and operators of facilities that process or re-refine used oil shall comply with the following requirements:
 - 1. Facilities shall be maintained and operated to minimize the possibility of a fire, explosion or any accidental release of used oil to air, soil, groundwater or surface water that could threaten human health or the environment.
 - 2. All facilities shall be equipped with the following:
 - (a) An internal communication or alarm system capable of providing immediate emergency instruction to facility personnel;
 - (b) Devices, such as a telephones or other devices located in appropriate locations throughout the facility capable of summoning emergency assistance from local fire departments, police departments or the State Emergency Response team;
 - (c) Portable fire extinguishers or fire control equipment, spill control equipment and decontamination equipment designed to control and contain fires, spills or releases involving oil and related materials; and
 - (d) Fire hoses and water of adequate volume and pressure or other fire suppressant systems such as foam producing equipment or automated sprinkler systems to provide for immediate response to fires in the facility and to meet all local and State building code requirements.
- M. Testing and maintenance of all facility equipment, including but not limited to, communication systems, alarm systems, fire control equipment, spill control equipment and decontamination equipment shall be conducted at least on an annual basis to ensure its proper operation at the time of an emergency.
- N. Personnel working in all areas of the facility where used oil is being poured, mixed, spread or otherwise handled shall have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice communication with another employee. In the event that only one employee is working during a particular shift, the employee shall have immediate access to an alarm or emergency

communication device that is capable of summoning emergency responders and any other appropriate authority required to respond to an incident at the facility.

- O. The owner or operator of a used oil processing/re-refining facility shall provide no less than three (3) feet of aisle space within all storage areas at the facility to allow for the unobstructed movement of emergency response and fire department personnel and equipment.
- P. The owner or operator of a used oil processing/re-refining facility shall make the following arrangements with local and State authorities as appropriate for the amount and type of used oil being managed on-site:
 - 1. Arrangements to familiarize the police, fire departments and emergency response teams with the layout of the facility, properties of used oil handled at the facility and associated hazards, places where used oil is processed or stored and evacuation routes to be used by facility personnel.
 - 2. Where more than one fire or police department or other related authority might respond, a designation of a primary emergency authority should be made and an agreement reached with said authorities to provide support to the primary emergency authority.
 - 3. Agreements with State Emergency Responders, emergency response contractors and any other appropriate emergency equipment suppliers.
 - 4. Arrangements with local hospitals to familiarize them with the properties of the used oil managed on-site and types of injuries or illnesses that could result from fires, explosions, or releases at the facility.
 - 5. If state or local officials decline to acknowledge or make such arrangements the used oil processor/re-refiner shall document the refusal in its operating record.
- Q. Contingency Plan. Owners and operators of used oil processing/re-refining facilities shall comply with the following requirements:
 - 1. Each owner or operator shall prepare and maintain a contingency plan for the facility that is designed to minimize hazards to human health and the environment from fires, explosions or any unplanned or sudden releases of used oil to air, soil or surface water. The provisions of this plan shall be carried out immediately in the event of a spill, release or fire.
 - 2. The contingency plan shall describe the actions facility personnel will undertake to comply with this rule in response to a fire, explosion, spill or release of used oil at the facility and include the following:

- (a) In the event that the facility has an existing Spill Prevention Control and Countermeasures Plan or hazardous waste contingency plan, the existing plan shall be amended to include the used oil management requirements of this Rule;
 - (b) The plan shall describe the arrangements made with local and state authorities in accordance with Rule 15.8 (P);
 - (c) The plan shall list names, addresses and phone numbers (office and home) of all persons qualified to act as an emergency coordinator for the facility, the list shall identify a primary emergency coordinator and this list shall be kept current. Where more than one person is listed, those other than the primary emergency coordinator shall be listed in the order they will assume this role as alternates;
 - (d) The plan shall list all emergency equipment located at the facility including, but not limited to, fire control equipment/systems, spill control equipment, communication/alarm systems and decontamination equipment. The list shall be kept current and the plan shall include a sketch depicting the location and type of equipment;
 - (e) The plan shall include an evacuation plan for facility personnel and shall include a sketch of all evacuation routes and alternate evacuation routes located at the facility. The plan shall also describe the signal to be used to alert facility personnel to evacuate the facility.
3. The owner or operator of the facility shall maintain on-site a copy of the contingency plan and all revisions to the plan and shall submit copies of the current plan to local fire and police departments, hospitals and State and local emergency response teams.
 4. The contingency plan shall be periodically reviewed and amended as necessary to reflect the current facility conditions (e.g., facility layout or equipment) including personnel changes, changes to the list of emergency coordinators and when affected by changes to the Rules or when the plan fails in an emergency.
 5. During all operating hours and non-operating hours there shall be one employee on-site, or on call, that is a designated emergency response coordinator. This emergency response coordinator shall be thoroughly familiar with the facility's contingency plan, all operations conducted at the facility, the location and characteristics of all used oil handled at the facility, the location of the required facility records and the facility layout. In addition, the coordinator shall have the authority to commit the resources necessary to carry out the contingency plan in the event of an emergency.

6. Whenever there is an imminent or actual emergency situation, the emergency coordinator present on-site shall immediately:
 - (a) Activate the internal facility alarms or communication systems to alert the facility's personnel;
 - (b) Notify appropriate State or local agencies with designated response roles;
 - (c) Identify the character, exact source, amount and aerial extent of the release materials;
 - (d) Assess the hazards to human health and the environment that may result from any release, fire or explosion. This assessment shall include the immediate and potential effects of the incident to impact humans and the local environment and the potential for additional incidents like explosions;
 - (e) Notify the Department Emergency Response Program and the National Response Center (using the 24 hour toll free number 800-424-8802) and report his/her findings. This report shall include:
 - (i) Name and telephone number of the reporter;
 - (ii) Name and address of the facility;
 - (iii) Time and type of the incident;
 - (iv) Name and quantity of the materials involved;
 - (v) Extent of the injuries resulting, if any; and
 - (vi) The possible hazards to human health and the environment.
 - (f) During the emergency the emergency coordinator shall take all reasonable measures necessary to ensure that fires, explosions and releases do not occur, reoccur or spread to other used oil or hazardous waste stored at the facility. These measures shall include, where applicable, stopping processes and operation, containing and collecting released materials and moving or isolating containers.
 - (g) In the event that facility operations shall be shut down due to a fire, explosion or release the emergency response coordinator shall monitor the equipment for a build-up of pressure, leaks, gas generation, or related failure where appropriate.
 - (h) Immediately after the incident the emergency response coordinator shall provide for clean up and recycling or disposal of all used oil, waste or any other contaminated materials generated during the incident and clean up. The coordinator shall ensure that all affected areas of the facility have been adequately cleaned and all used oil and waste removed before allowing facility personnel back into the affected areas, and that any emergency equipment

used during the incident is cleaned and fit for intended use prior to resuming operations.

- (i) The facility owner or operator shall notify the Director and any other appropriate State and local authority that all of the conditions in paragraph (h) above have been satisfied prior to resuming operations in the affected area.
 - (j) The owner or operator shall note in the operating record the time, date and details of the incident that required the implementation of the facility's contingency plan. Within 15 days of the incident he/she shall submit a written report of the incident to the Director that includes the following:
 - (i) Name, address and telephone number of the owner or operator;
 - (ii) Name, address and telephone number of the facility;
 - (iii) Date, time and type of incident that occurred;
 - (iv) Names and quantities of the materials involved;
 - (v) The extent of any injuries;
 - (vi) Assessment of actual or potential hazards to human health or the environment resulting; and
 - (vii) Estimated quantity and disposition of the materials involved.
- R. Used Oil Analysis. Prior to processing or otherwise managing used oil at a used oil processing/re-refining facility, the owner or operator shall determine the total halogen content of the used oil by having the used oil tested by an analytical laboratory or by applying product knowledge of the halogen content of the materials used and the process that generated the used oil. In the event that the used oil has a total halogen content greater than or equal to 1,000 ppm, the used oil will be presumed to have been mixed with a hazardous waste. The owner or operator of the facility may rebut this presumption in accordance with the procedures contained in Rule 15.1(B). The owner or operator of a processing/re-refining facility shall maintain records of all analytical testing or determinations made based on product knowledge for a period of at least three (3) years.
- S. Used Oil Analysis Plan. Owners or operators of used oil processing/re-refining facilities shall develop and follow a written set of analytical procedures to ensure compliance with Rule 15.8(R). The owner operator shall keep the analysis plan current, maintain it at the facility and the plan shall include the following:
- 1. A statement indicating whether the determination of total halogen content of the used oil will be made based on knowledge of halogen content or sample analyses.

2. If the owner or operator uses sample analyses for the determination of total halogen content, the plan shall indicate the following:
 - (a) The analytical method used will be ASTM Method D808-95 or an equivalent method approved by the EPA and contained in EPA Publication SW-846, "Test Methods for Evaluating Solid Waste-Physical/Chemical Methods, Edition III";
 - (b) The sampling method used to obtain the representative sample, acceptable sampling methods include those listed in 40 CFR 261 Appendix I or an equivalent method approved by the Director;
 - (c) The frequency of the sampling to be performed and an indication as to whether the analysis will be performed on-site or off-site.
 3. If the owner or operator determines the total halogen content of the used oil based only on knowledge of the halogen content, the plan shall indicate the type and source of the information used in making this determination.
 4. If the total halogen content is determined to be greater than 1,000 ppm, the plan shall indicate the analytical test methods or information used to rebut the presumption of mixing hazardous waste and used oil.
 5. If specification used oil is received for burning on-site, the plan shall describe the analytical and sampling methods used to determine that the used oil meets the criteria established in Rule 15.3 and include the information regarding the total halogen content required in Rule 15.8 (S) (1-3). The plan shall also indicate whether sampling and analysis will occur before or after processing/re-refining.
- T. Management of Used Oil. Used oil processor/re-refiners as defined in Rule 3 that store used oil on-site shall comply with the applicable sections of the *Regulations for Underground Storage Facilities Used For Petroleum Products and Hazardous Materials*, the *Oil Pollution Control Regulations* and the following requirements:
1. Storage Units. Owners or operators of used oil processing/re-refining facilities may not store used oil in units other than tanks and containers as defined in Rule 3.
 2. Condition of Storage Units. Containers and aboveground storage tanks used to store used oil at processing/re-refining facilities shall be:
 - (a) In good condition and free of severe rusting, corrosion or structural defects. In the event that a container deteriorates and begins to leak the generator shall transfer the used oil to a container that is in good condition;
 - (b) Liquid tight with no visible leaks;

- (c) Kept closed except when adding or removing used oil.
3. Secondary Containment for Containers and Above Ground Tanks (ASTs). Containers and aboveground tanks used to store used oil shall be equipped with a secondary containment feature that at a minimum has the following:
 - (a) A floor or bottom that is impervious to used oil covering the entire area; and
 - (b) Dikes, berms or retaining walls capable of containing a spill or release of used oil; and
 - (c) A capacity equivalent to 100% of the volume of used oil stored in the containers at the facility; and
 - (d) The entire system shall be impervious to used oil to prevent a release; or
 - (e) An equivalent containment system that is approved by the Director.
 4. Exterior Storage. Used oil processor/re-refiners that store used oil in containers and/or aboveground tanks outdoors shall either construct the storage area with a means to prevent the accumulation of stormwater in the secondary containment device; or obtain a Stormwater Permit from the Department's Office of Water Resources prior to the construction of the storage area.
 5. Labeling. Containers and aboveground storage tanks used to store or process used oil at used oil processing/re-refining facilities shall be clearly and permanently marked with the words "Used Oil". Fill pipes for underground storage tanks used to store used oil at used oil processing/re-refining facilities shall be clearly marked with the words "Used Oil". Markings for USTs shall comply with the requirements of the *Rules and Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials*.
 6. Response to releases. Upon detection of a release of used oil, the owner or operator of a used oil processing/re-refining facility shall perform the following:
 - (a) Take immediate steps to stop the release;
 - (b) Contain all of the released used oil;
 - (c) Clean up and properly manage the used oil and any other materials that were contaminated with used oil;
 - (d) Repair or replace any leaking or damaged used oil storage units prior to returning them to service; and
 - (e) Immediately notify the Department's Emergency Response Program (at 222-1360 or after hours at 222-3070), the local

authorities and if required by 49 CFR 171.15 notify the National Response Center.

- (f) Comply with the requirements of the *Oil Pollution Control Regulations, Rules and Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials* and all other applicable Federal, State and Municipal Rules and Regulations relating to the release and handling of spilled or released used oil.

U. Closure and Post Closure. The owner or operator shall close the facility in accordance with the closure plan approved by the Director, in compliance with all of the requirements of the Approval Letter issued by the Department and in a manner equivalent to that required by 40 CFR 264 Subpart G.

V. Financial Requirements. The owner or operator shall meet the financial requirements contained in 40 CFR 264 Subpart H as well as the requirements set forth in Rule 7 of these rules and regulations. Owner or operators choosing the trust fund option described in 40 CFR 264.143(a) shall, for new facilities deposit the full amount of the closure cost estimate when the trust fund is established.

W. Tracking.

1. Used oil processors/re-refiners shall keep a record of each used oil shipment accepted for processing/re-refining that shall include the following:
 - (a) The name, address and EPA Identification Number of the used oil transporter who delivered the used oil to the used oil processor/re-refiner;
 - (b) The name, address and EPA Identification Number (if applicable) of the used oil generator or processor/re-refiner from whom the used oil was sent for processing or re-refining;
 - (c) The quantity of used oil accepted;
 - (d) The date of acceptance;
 - (e) The name and signature of an agent of the processor/re-refiner who received the used oil.
2. Deliveries. Used oil processors/re-refiners shall keep a record of each shipment of used oil that is shipped off-site to another used oil processor/re-refiner, used oil burning facility that shall include:
 - (a) The name, address and EPA Identification Number of the used oil transporter who delivers the used oil to the used oil processor/re-refiner, or used oil burning facility;

- (b) The EPA Identification number, name and address of the receiving used oil processor/re-refiner, used oil burning facility;
 - (c) The quantity of used oil delivered;
 - (d) The date the shipment was transported off-site;
 - (e) The name and signature of an agent of the receiving facility or used oil transporter.
3. The used oil processor/re-refiner shall retain for a period of at least three years all records generated by the acceptance and delivery of used oil to and from its facility.
- X. Operating Record and Reporting.
- 1. The owner or operator shall keep a written record at the facility that contains the following information as it becomes available and maintained until the closure of the facility:
 - (a) Records and results of used oil analyses performed as described in rules 15.8(R) & (S); and
 - (b) Summary reports and details of all incidents that require implementations of the facility's contingency plan.
 - 2. A used oil processor/re-refiner shall report to the Department on a biennial basis (by March 1 of each even numbered year), the following information regarding the previous year's used oil activities:
 - (a) The EPA Identification Number, name and address of the used oil processor/re-refiner;
 - (b) The calendar year covered by the report; and
 - (c) The quantities of used oil accepted for processing/re-refining and the manner in which the used oil is processed/re-refined, including the specific process employed.
- Y. Off-site shipment. Used oil processors/re-refiners who initiate shipments of used oil off-site shall ship the used oil using a Rhode Island permitted used oil transporter who has an EPA Identification Number.
- Z. Management of Residues. Used oil processors/re-refiners who generate residues from the storage, processing or re-refining of used oil shall manage the residues in compliance with Rule 15.1(F).

15.9 Used Oil Marketer Standards

- A. Applicability. The requirements of this Rule apply to any person that meets the definition of a used oil marketer contained in Rule 3.
- B. This Rule does not apply to the following persons:

1. Used oil generators or used oil transporters who direct shipments of used oil to used oil processors/re-refiners that burn used oil incidentally as part of the processing of the used oil.
 2. Persons who direct shipments of used oil to used oil burners that are not the first person to claim the used oil meets the requirements of Table 2 in Rule 15.3.
- C. Specification Used Oil. Prior to initiating a shipment of used oil from a used oil generator to a used oil burner the used oil marketer shall comply with the following:
1. Prior to shipping the used oil marketer has the used oil analyzed by a laboratory, or obtains certified copies of analytical test results conducted by a laboratory from the generator or transporter, to verify that the used oil meets the definition of specification used oil. Used oil marketers may use process and product knowledge to verify that used oil meets the requirements of specification used oil if such knowledge is documented by the used oil generator or used oil transporter.
 2. The used oil marketer shall maintain all records of analytical testing or documentation of knowledge of the used oil from the date the shipment occurs for a period of at least three years and shall provide such records to the Department upon request.
- D. Any person subject to the requirements of this Rule shall also comply with the applicable Rules listed below depending on their activities:
1. Rule 15.3, if their activity involves the burning of used oil;
 2. Rule 15.4; if their activity involves the generation of used oil;
 3. Rule 15.5; if their activity involves the aggregation of used oil;
 4. Rule 15.6; if their activity involves the collection of used oil;
 5. Rule 15.7; if their activity involves the transportation of used oil;
 6. Rule 15.8; if their activity involves the processing or re/refining of used oil, or involves the aggregation of or collection of used oil beyond what is allowed under Rules 15.5 and 15.6.
- E. Tracking.
1. Used oil marketers shall keep a record of each used oil shipment received for transport for a period of at least three years that shall include the following:
 - (a) The name and address of the used oil generator, used oil transporter or used oil processor/re-refiner who provided the used oil for transport;

- (b) The EPA Identification Number (if applicable) of the used oil generator, used oil transporter or used oil processor/re-refiner who provided the used oil for transport;
 - (c) The quantity of used oil accepted;
 - (d) The date of acceptance; and
 - (e) The name and signature of an agent of the used oil generator, used oil transporter or used oil processor/re-refiner that provided the used oil for transport.
2. Deliveries. Used oil marketers shall keep a record of each shipment of used oil that is delivered to another used oil transporter, processor/re-refiner, or used oil burner that shall include:
- (a) The name and address of the receiving facility or used oil transporter;
 - (b) The EPA Identification number of the receiving facility or used oil transporter;
 - (c) The quantity of used oil delivered;
 - (d) The date of the delivery;
 - (e) The name and signature, dated upon receipt of the used oil, of an agent of the receiving facility or used oil transporter.
- F. Record Keeping. All records generated by the transportation of used oil shall be retained by the used oil marketer for a period of at least three years.
- G. Notification. Used oil marketers shall obtain an EPA Identification Number by submitting to the Department a Notification of Regulated Waste Activity form (EPA form 8700-12)

16 CORRECTIVE ACTION

16.1 Applicability:

- A. For a facility owner or operator seeking a new permit or a renewal permit (including a post closure permit) for the treatment, storage, or disposal of hazardous waste, the corrective action provisions of 40 CFR 264.101(a)-(c) are incorporated by reference. These provisions in 40 CFR 264.101 do not apply to a remediation waste management site unless it is part of a facility subject to a permit for treating, storing, or disposing of hazardous wastes that are not remediation wastes.
- B. Additional requirements to address releases from certain types of solid waste management units, including regulated units (as defined in 40 CFR

264.90(a)(2)) and miscellaneous units, are provided in 40 CFR 264.90-.100, that are incorporated by reference.

- C. Pursuant to State law, The Department's "Rules and Regulations for the Investigation and Remediation of Hazardous Material Releases" applies to remediation waste management sites, including, but not limited to, facilities and solid waste management units subject to the additional requirements of Rule 16.1 A and B. The Department has the authority to require additional remediation measures on a case by case basis, when necessary to protect human health and the environment, in accordance with 40 CFR 270.32.

16.2 Permitting Options: A facility owner or operator that is required by the Department to obtain a permit to treat, store, or dispose of remediation waste that is hazardous shall comply with Rule 7 permitting requirements or shall seek a Remedial Action Plan permit ("RAP"). 40 CFR 270 Subpart H is incorporated by reference except as follows:

- A. In 270.80(a), replace "§§ 270.3 through 270.66" with "Rule 7"
- B. In 270.85(a)(1), replace §§ 270.3 through 270.66" with "Rule 7".
- C. In 270.140 and 270.150, replace "issuing Regional Office" with "Department".
- D. In 270.155, replace the "EPA's Environmental Appeals Board", "the Environmental Appeals Board", and "the Board" with "the Department's Administrative Adjudication Division".
- E. In 270.155, add "(c) All appeals shall be in writing and shall be filed with the clerk of the Administrative Adjudication Division within thirty (30) calendar days of the Director's decision to approve or deny the RAP. All appeals shall be heard before Division of Administrative Adjudication hearing officers."
- F. In 270.190, replace "EPA's Environmental Appeals Board" and "the Environmental Appeals Board" with "the Department's Administrative Adjudication Division".
- G. In 270.190 add "(c)(4) The letter from the appealing person shall be filed with the clerk of the Department's Administrative Adjudication Division within thirty (30) calendar days of the Director's issuance of the decision."
- H. Delete 270.215(c) and (d).
- I. In 270.230(e), before the colon add "(provided the alternate locations are not at facilities subject to permits for treating, storing, or disposing of hazardous wastes that are not remediation wastes.)"

16.3 Management of Remediation Waste:

- A. The owner or operator of a remediation waste management site may seek to employ one or more of the following types of management units for increased flexibility in performing remediation:
 - 1. Corrective Action Management Units (CAMUs) as defined in 40 CFR 270.2 for treatment, storage, and/or disposal of remediation waste;
 - 2. Temporary Units (TUs) for treatment and/or storage of remediation waste under 40 CFR 264.553;
 - 3. Staging Piles for storage of remediation waste.
- B. These management units are defined in and subject to the provisions and conditions of 40 CFR 264.550-.554, that are incorporated by reference.
- C. The owner or operator of a remediation waste management site may choose to treat remediation waste and then dispose of it in a permitted hazardous waste landfill, provided the waste is at least treated and disposed of according to the provisions and conditions of 40 CFR 264.555, that is incorporated by reference.

17 APPEALS AND PENALTIES

17.1 Enforcement Action Appeals: All requests for an adjudicatory hearing shall be in writing and shall be filed with the clerk of the Administrative Adjudication Division within twenty (20) days of receipt of the contested enforcement action.

17.2 Civil Penalties for Violations: Persons who shall violate the provisions of these rules and regulations shall be subject to the penalties as provided for by Chapter 23-19.1-17 (2001 Reenactment) of the General Laws of Rhode Island, 1956, as amended.

17.3 Criminal Penalties for Violations: Persons who shall violate the provisions of these rules and regulations shall be subject to the penalties as provided for by Chapter 23-19.1-18, (2001 Reenactment) of the General Laws of Rhode Island, 1956, as amended.

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The foregoing Rules and Regulations for Hazardous Waste Management, including all subsequent amendments as indicated on the title page, after due notice and hearing, are hereby adopted and filed with the Secretary of State this ____ day of January, 2014, to become effective twenty days after filing, in accordance with the provisions of the General Laws of Rhode Island, 1956, as amended, Chapter 42-35, specifically §§ 42-35-3(a) and 42-35-4(b); Chapter 23-19.1, specifically § 23-19.1-6(a); Chapter 23-19.4; and the Public Laws of Rhode Island, 1978, Chapter 229.

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Janet Coit, Director
Department of Environmental Management

Notice given on: [November 15, 2013](#)

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Public Hearing held on: [December 9, 2013](#)

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Filing Date: _____

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APPENDIX I – Sample Manifest Form (EPA Form 8700-22)

Please print or type. (Form designed for use on elite (12-pitch) typewriter.)

Form Approved. OMB No. 2050-0039

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| | | | | | | | | |
|---|--------|--|----------------|-----------------------------|-----------------------------|-------------------|-----------------|--|
| UNIFORM HAZARDOUS WASTE MANIFEST | | 1. Generator ID Number | 2. Page 1 of | 3. Emergency Response Phone | 4. Manifest Tracking Number | | | |
| 5. Generator's Name and Mailing Address | | Generator's Site Address (if different than mailing address) | | | | | | |
| Generator's Phone: | | | | | | | | |
| 6. Transporter 1 Company Name | | U.S. EPA ID Number | | | | | | |
| 7. Transporter 2 Company Name | | U.S. EPA ID Number | | | | | | |
| 8. Designated Facility Name and Site Address | | U.S. EPA ID Number | | | | | | |
| Facility's Phone: | | | | | | | | |
| GENERATOR | 9a. HM | 9b. U.S. DOT Description (including Proper Shipping Name, Hazard Class, ID Number, and Packing Group (if any)) | 10. Containers | | 11. Total Quantity | 12. Unit Wt./Vol. | 13. Waste Codes | |
| | | | No. | Type | | | | |
| | | 1. | | | | | | |
| | | 2. | | | | | | |
| | | 3. | | | | | | |
| | 4. | | | | | | | |
| 14. Special Handling Instructions and Additional Information | | | | | | | | |
| 15. GENERATOR'S/OFFEROR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgment of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true. | | | | | | | | |
| Generator's/Offeror's Printed/typed Name | | Signature | | Month | Day | Year | | |
| 16. International Shipments <input type="checkbox"/> Import to U.S. <input type="checkbox"/> Export from U.S. Port of entry/exit: _____ Date leaving U.S.: _____ | | | | | | | | |
| 17. Transporter Acknowledgment of Receipt of Materials | | | | | | | | |
| Transporter 1 Printed/typed Name | | Signature | | Month | Day | Year | | |
| Transporter 2 Printed/typed Name | | Signature | | Month | Day | Year | | |
| 18. Discrepancy | | | | | | | | |
| 18a. Discrepancy Indication Space <input type="checkbox"/> Quantity <input type="checkbox"/> Type <input type="checkbox"/> Residue <input type="checkbox"/> Partial Rejection <input type="checkbox"/> Full Rejection | | | | | | | | |
| Manifest Reference Number: _____ U.S. EPA ID Number _____ | | | | | | | | |
| 18b. Alternate Facility (or Generator) | | U.S. EPA ID Number | | | | | | |
| Facility's Phone: | | | | | | | | |
| 18c. Signature of Alternate Facility (or Generator) | | Signature | | Month | Day | Year | | |
| 19. Hazardous Waste Report Management Method Codes (i.e., codes for hazardous waste treatment, disposal, and recycling systems) | | | | | | | | |
| 1. | | 2. | | 3. | | 4. | | |
| 20. Designated Facility Owner or Operator: Certification of receipt of hazardous materials covered by the manifest except as noted in item 18a | | | | | | | | |
| Printed/typed Name | | Signature | | Month | Day | Year | | |

EPA Form 8700-22 (Rev. 1-04) Previous editions are obsolete.

DESIGNATED FACILITY TO DESTINATION STATE (IF REQUIRED)

Appendix II: Sample Manifest Continuation Sheet (EPA Form 8700-22a)

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MAIL THE COMPLETED FORM TO:¶
RIDEM/OC&I, Suite 220¶
235 Promenade Street Providence, RI
02908 ... [1]

Deleted: ¶

Please print or type. (Form designed for use on elite (12-pitch) typewriter.) Form Approved, OMB No. 2050-0039

| | | | | | | | |
|---|---|-------------------------|----------------|------------------------------|--------------------|-------------------|-----------------|
| UNIFORM HAZARDOUS WASTE MANIFEST (Continuation Sheet) | | 21. Generator ID Number | 22. Page | 23. Manifest Tracking Number | | | |
| 24. Generator's Name | | | | | | | |
| 25. Transporter _____ Company Name | | | | U.S. EPA ID Number | | | |
| 26. Transporter _____ Company Name | | | | U.S. EPA ID Number | | | |
| 27a. HM | 27b. U.S. DOT Description (including Proper Shipping Name, Hazard Class, ID Number, and Packing Group (if any)) | | 28. Containers | | 29. Total Quantity | 30. Unit Wt./Vol. | 31. Waste Codes |
| | | | No. | Type | | | |
| VOID | | | | | | | |
| 32. Special Handling Instructions and Additional Information | | | | | | | |
| TRANSPORTER | 33. Transporter _____ Acknowledgment of Receipt of Materials | | Signature | | Month | Day | Year |
| | Printed/Typed Name | | | | | | |
| DESIGNATED FACILITY | 34. Transporter _____ Acknowledgment of Receipt of Materials | | Signature | | Month | Day | Year |
| | Printed/Typed Name | | | | | | |
| 35. Discrepancy | | | | | | | |
| 36. Hazardous Waste Report Management Method Codes (i.e., codes for hazardous waste treatment, disposal, and recycling systems) | | | | | | | |
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EPA Form 8700-22A (Rev. 3-05) Previous editions are obsolete. DESIGNATED FACILITY TO DESTINATION STATE (IF REQUIRED)

APPENDIX III: Notification Form

-----Section Break (Next Page)-----

| | | | | |
|--|---|------------|---|---------------|
| <p>MAIL THE COMPLETED FORM TO: RIDEM/OC&I, Suite 220 235 Promenade Street Providence, RI 02908</p> | <p align="center">Rhode Island Department of Environmental Management (RIDEM) United States Environmental Protection Agency(USEPA) RCRA SUBTITLE C SITE IDENTIFICATION FORM</p> | | <p align="center"><u>Office Use</u></p> | |
| <p>1. Reason for Submittal (See instructions on page 10) MARK CORRECT BOX(ES)</p> | <p align="center">Reason for Submittal:</p> <input type="checkbox"/> To provide Initial Notification of Regulated Waste Activity (to obtain a EPA ID Number for hazardous waste, universal waste, or used oil activities). <input type="checkbox"/> <input type="checkbox"/> To provide Subsequent Notification of Regulated Waste Activity (to update site identification information as a component of a First RCRA Hazardous Waste Part A Permit Application. As a component of a Revised RCRA Hazardous Waste Part A Permit Application (Amendment # _____). As a component of the Hazardous Waste Report. A transporter of hazardous waste whose primary business headquarters are in Rhode Island. | | | |
| <p>2. Site EPA ID Number (See instructions on page 11)</p> | <p>EPA ID Number: </p> | | | |
| <p>3. Site Name (See instructions on page 11)</p> | <p align="center">Name:</p> | | | |
| <p>4. Site Location Information (See instructions on page 11)</p> | <p align="center">Street Address: City or Town: State: County Name: Zip Code:</p> | | | |
| <p>5. Site Land Type (See instructions on page 11)</p> | <p>Site Land Type: Pri□te Co□ity Dis□ict Fe□ral I□ian Mu□cipal □State Other</p> | | | |
| <p>6. North American Industry Classification System (NAICS) Code(s) for the Site (See Instructions on page 11)</p> | <p align="center">A.</p> | | <p align="center">B.</p> | |
| | <p align="center">C.</p> | | <p align="center">D.</p> | |
| <p>7. Site Mailing Address (See instructions on page 12)</p> | <p align="center">Street or P. O. Box: City, Town, or Village: State: Country: Zip Code:</p> | | | |
| <p>8. Site Contact Person (See instructions on page 12) If</p> | <p>First Name:</p> | <p>MI:</p> | <p>Last Name:</p> | <p>Title:</p> |

| | | | | | |
|--|-------------------------------------|----------------------------------|------------------------------------|-----------------------------------|----------------------------------|
| 9. Legal Owner and Operator of the Site (See instructions on page 12) If address is not site location, put address in Item #12 | Phone Number: | | Extension: | | |
| | A. Name of Site's Legal Owner: | | | Date Became Owner (mm/dd/yyyy): | |
| | Owner Type <input type="checkbox"/> | Private <input type="checkbox"/> | County <input type="checkbox"/> | District <input type="checkbox"/> | Federal <input type="checkbox"/> |
| | State <input type="checkbox"/> | Other <input type="checkbox"/> | | | |
| B. Name of Site's Operator: | | | Date Became Operator (mm/dd/yyyy): | | |
| Operator Type <input type="checkbox"/> | Private <input type="checkbox"/> | County <input type="checkbox"/> | District <input type="checkbox"/> | Federal <input type="checkbox"/> | |
| | | | State <input type="checkbox"/> | Other <input type="checkbox"/> | |

Page Break

10. Type of Regulated Waste Activity (Mark the appropriate boxes for activities that apply to your site. See instructions on pages 13 to 14)

Hazardous Waste Activities

1. Generator of Hazardous Waste
(Choose only one of the following two categories.)

a. LQG: Greater than 1,000 kg/mo (2,200 lbs./mo.) of non-acute hazardous waste; or >1 kg/mo (2.2 lbs) of acute hazardous waste

b. SQG: 100 to 1,000 kg/mo (220 - 2,200 lbs./mo.) of non-acute hazardous waste.

c. CESQG: Less than 100 kg/mo (0 - 220 lbs./mo.) of non-acute hazardous waste.

In addition, indicate other generator activities. (Mark all that apply)

c. United States Importer of Hazardous Waste
Mixed Waste (hazardous and radioactive) Generator

2. Commercial Transporter of Hazardous Waste

For Items 3 through 9, mark all that apply.

Treater, Storer, Disposer, Recycler of Hazardous Waste from offsite Note: A hazardous waste permit may be required for this activity.

a. Recycler of Used Electronics/Circuit Boards

Operating a Permit Specific Hazardous Waste Management Unit of waste generated on-site

5. Exempt Boiler and/or Industrial Furnace

a. Small Quantity On-site Burner Exemption

b. Smelting, Melting, and Refining Furnace Exemption

6. Circuit Boards Shredding Facility

7. Household Hazardous Waste Facility

8. Community Collection Center (collects hazardous waste from CESQG's and households)

9. Paint Collection Center (collects only paint from CESQG's and households)

Commercial Used Oil Activities

1. Burning Spec Used Oil from offsite in a unit 500,000 btu/hr or less

2. Burning Spec Used Oil in a unit greater than 500,000 btu/hr

3. Processor or re-refiner of Used Oil

4. Commercial transporter of Used Oil

5. Used Oil Marketer

6. Used oil Collection Center

B. Universal Waste Activities

1. Large Quantity Handler of Universal Waste (accumulate 11,000 lb or more). Indicate types of universal waste generated and/or accumulated at your site. (Mark all boxes that apply):

| | | | |
|-------------------------------------|-------------------------------|--|--------------------------|
| | Generate on | | Receive from offsite |
| a. Batteries | <input type="checkbox"/> site | | <input type="checkbox"/> |
| b. Pesticides | <input type="checkbox"/> | | <input type="checkbox"/> |
| c. Mercury Lamps | <input type="checkbox"/> | | <input type="checkbox"/> |
| d. Other mercury containing devices | <input type="checkbox"/> | | <input type="checkbox"/> |
| e. Used electronics | <input type="checkbox"/> | | <input type="checkbox"/> |
| f. Spent photo fixer | <input type="checkbox"/> | | <input type="checkbox"/> |

2. Destination Facility for Universal Waste

Note: A hazardous waste permit may be required for this activity.

-----Page Break-----

11. Description of Hazardous Wastes (See instructions on page 15)

Waste Codes for Federally Regulated Hazardous Wastes. Please list the waste codes of the Federal hazardous wastes handled at your site. List them in the order they are presented in the regulations (e.g., D001, D003, F007, U112). Use an additional page if more spaces are needed.

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Waste Codes for State-Regulated (i.e., non-Federal) Hazardous Wastes. Please list the waste codes of the State-regulated hazardous wastes handled at your site. List them in the order they are presented in the regulations. Use an additional page if more spaces are needed for waste codes.

| | | | | | | |
|--|--|--|--|--|--|--|
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12. Comments (See instructions on page 16)

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13. Certification. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. (See instructions on page 15)

| | | |
|---|---|----------------------------------|
| *Signature of owner, operator, or an authorized representative | *Name and Official Title (type or print) | *Date Signed (mm/dd/yyyy) |
| | | |
| | | |
| | | |

*Must be filled in or application will be returned.