

April 20, 2001

The Honorable Lincoln C. Almond
Governor of the State of Rhode Island
Executive Chambers
State House
Providence, RI 02908

Re: Regulatory Agenda for 2001

Dear Governor Almond:

In accordance with the provisions of the Administrative Procedures Act, I am pleased to provide you with the Department of Environmental Management's Regulatory Agenda for 2001. The attached document provides a summary of the rules and regulations that DEM is intending to promulgate this calendar year. As you know, we continue to work closely with various stakeholder groups on various initiatives relating to our regulatory programs; we are pursuing several legislative initiatives in the 2001 session of the General Assembly; and we continue to track statutory and regulatory changes at the federal level. If, through these or any other avenues, the need arises to pursue additional measures, I will provide you with updates.

The attached document is posted on DEM's web site at is posted on DEM's web site (www.state.ri.us/dem) under "Topics" and "Regulations"

Sincerely,

Jan H. Reitsma

cc: Secretary of State Edward S. Inman
Speaker John B. Harwood
Majority Leader William V. Irons

2001 Regulatory Agenda

Hazardous Waste Management

- Toxicity Testing Rule, Non-HSWA Cluster IV, and Universal Waste
- Generators, Used Oil, RCRA Corrective Action
- Battery Deposit and Control

Solid Waste Management

- Monitoring Plans, Gas Collection Systems; Daily Tonnage, Fire Plans

Air

- Operating Permit Fees
- Air Toxics
- Accidental Release Prevention Program
- Control of VOCs from Commercial & Consumer Products
- Control of VOCs from Architectural & Industrial Maintenance Coatings
- Vehicle Inspection Program
- On-Road Heavy-Duty Diesel Testing Program
- Low Emission Vehicle Program

Water

- Freshwater Wetlands
- ISDS
- Groundwater Quality
- Water Quality
- RIPDES (Stormwater)
- Wastewater Treatment Facilities O & M
- Pretreatment
- State Revolving Fund Program
- Pawtuxet River Authority Bond Fund

Natural Resources

- Open Space/Recreation Bond
- State Parks and Management Areas
- Farm, Forest, & Open Space
- Agent Licensing - Fishing & Hunting Program

Hazardous Waste Management

Toxicity Testing (TC) Rule, Non-HSWA Cluster IV, and Universal Waste

Purpose: Amend state regulations in accordance with recent changes in federal law, thereby authorizing the state's hazardous waste program to address the three rule categories, in accordance with chapter 23-19.6 of the general laws. **Effects:** Universal Waste: Reduce the regulatory requirements for the new category of waste known as universal waste; and encourage recycling of mercury-containing devices, batteries, certain discontinued pesticides, fluorescent light bulbs, etc. **Impacted/Interested Parties:** Businesses, municipalities, and state agencies that generate universal waste as a result of their operations. **Contact:** Leo Hellested, Office of Waste Management, 222-2797.

Generators, Used Oil, RCRA Corrective Action

Purpose: Amend state regulations in accordance with recent changes in federal law and chapter 23-19.6 of the RI general laws. **Effects:** Generators: Clarify provisions governing generators to eliminate confusion regarding storage time, training of personnel, contingency plans, secondary containment, preparedness and prevention, labeling, accumulation start time, inspections, and other management or handling requirements, in accordance with current federal regulations. Used oil: Re-classify waste oil as a waste subject to recycling rather than a hazardous waste. **Impacted/Interested Parties:** Businesses, municipalities, and state agencies that generate used oil and hazardous waste as a result of their operations. **Contact:** Leo Hellested, Office of Waste Management, 222-2797.

Battery Deposit and Control

Purpose: Repeal obsolete regulatory provisions governing control of vehicle batteries and dry-cell (rechargeable) batteries, in accordance with statutory repeals enacted in 2000 relating to chapter 23-60.1 of the general laws. **Effect:** Remove state oversight/control of vehicle battery deposit program and dry-cell battery controls. **Impacted/Interested Parties:** Battery dealers, manufacturers, distributors, recyclers, and consumers. **Contact:** Tom Armstrong, Office of Strategic Planning and Policy, 222-3434.

Solid Waste Management

Monitoring plan and gas collection system requirements for certain solid waste management facilities; and reduced daily tonnage threshold and local fire plan approval requirements for construction and demolition debris processing facilities

Purpose: Develop regulations in accordance with changes to chapter 23-18.9 of the general laws, which were enacted in 2000. **Effects:** Monitoring plan: Impose air and water monitoring requirements on all solid waste management facilities in an area known as the "environmental management district," which includes portions of Johnson and Cranston. Gas collection systems: Require such systems to be installed by any facility that stores materials containing gypsum for over three months. Reduced daily tonnage threshold: Reduce threshold for companies needing a construction and demolition (C & D) debris processing facility license from 150 tons per day to 50 tons per day. Local fire plan approval: Require municipal fire chiefs to approve fire plans submitted by companies seeking C & D debris processing facility licenses. **Impacted/Interested Parties:** Owners of solid waste management facilities, including construction and demolition debris processing facilities, particularly those located in the Johnston/Cranston area. **Contact:** Leo Hellested, Office of Waste Management, 222-2797.

Air

Operating Permit Fees (APC Reg. No. 28)

Purpose: Develop regulations, in accordance with section 23-23-5(18) of the general laws, pursuant to recommendations offered by the Operating Permits Advisory Committee. **Effect:** Change the proportion of the Operating Permit Program expenses paid in emission fees by those air pollution sources with approved emissions caps (of which there are approximately 100 in Rhode Island) and those sources required to obtain an operating permits (of which there are about 60). **Impacted/Interested Parties:** Manufacturers, hospitals, asphalt plants, schools, and other facilities that serve as sources of air emissions (approximately 160 in RI). **Contact:** Doug McVay, Office of Air Resources, 222-2808.

Air Toxics (APC Reg. No. 22)

Purpose: Update state regulations, in accordance with section 23-23-5(12) of the general laws, to include new federal hazardous air pollutants and to upgrade the requirements in view of new scientific and federal standards. **Effects:** Include federal hazardous air pollutants not currently listed in state regulations, update acceptable ambient levels for certain pollutants based on new federal standards; and modify requirements for dry cleaners to be consistent with federal rules. **Impacted/Interested Parties:** Dry cleaning operations (approximately 100 in RI). **Contact:** Barbara Morin, Office of Air Resources, 222-2808.

Accidental Release Prevention Program

Purpose: Develop regulations, in accordance with sections 23-23-2 and 23-23-5(12) of the general laws, to enable DEM to apply for federal delegation under the Clean Air Act's Accidental Release Prevention Program and then administer the program at the state level. **Effects:** Require certain facilities to develop Risk Management Plans to prevent accidental releases of pollutants to the air. Of the approximately 300 facilities that would be affected, 29 have already submitted plans to the EPA, about 30 other would be required to submit plans to DEM, and the remaining 250 would be required to prepare, but not submit, contingency plans. **Impacted/Interested Parties:** The approximately 300 industrial and commercial businesses in RI that store flammable or toxic gases (e.g., ammonia, propane). **Contact:** Barbara Morin, Office of Air Resources, 222-2808.

Control of Volatile Organic Compounds (VOCs) from Commercial and Consumer Products (APC Reg. No.31)

Purpose: Develop regulations, in accordance with section 23-23-5(12) of the general laws, to enable Rhode Island to join other states in a regional program aimed at limiting the VOC content of certain products. **Effect:** Require that the VOC content of certain commercial and consumer products (from air fresheners to wasp and hornet insecticides) be limited by 2005; also require that portable gasoline containers sold after 2003 be designed to reduce emissions and minimize spillage. **Impacted/Interested Parties:** Manufacturers of dozens of commercial and consumer products that contain VOCs (e.g., air fresheners, insecticides), and manufacturers of portable gasoline containers. **Contact:** Barbara Morin, Office of Air Resources, 222-2808.

Control of VOCs for Architectural and Industrial Maintenance Coatings (APC Reg. No. 33)

Purpose: Develop regulations, in accordance with section 23-23-5(12) of the general laws, to enable Rhode Island to join other states in a regional program aimed at limiting the VOC content of certain products. **Effect:** Require that the VOC content of paint and other architectural and industrial maintenance coatings (involving 46 categories) be limited by 2005. **Impacted/Interested Parties:** Manufacturers of architectural and industrial maintenance coatings in 46 categories that contain VOCs. **Contact:** Barbara Morin, Office of Air Resources, 222-2808.

Vehicle Inspection Program (APC Reg. No. 34)

Purpose: Develop regulations, in accordance with section 31-47.1-7(g) of the general laws, after EPA adopts new guidance for testing on-board diagnostics and Keating Technologies establishes pass/fail standards by which light-duty diesel

vehicles will be tested. **Effect:** Establish compliance standards, inspection procedures, and auditing techniques for on-board diagnostics and light-duty diesel inspections. **Impacted/Interested Parties:** Owners of model year 1996 and later vehicles and owners of light-duty diesel vehicles; also, authorized inspection and repair stations and Keating Technologies (program manager). **Contact:** Thomas Barry, Office of Air Resources, 222-2808.

On-Road Heavy-Duty Diesel Testing Program

Purpose: Develop regulations based on legislation enacted in 2000 and on input from advisory group, following through on regional effort being undertaken by all northeast states. These regulations will be established by the RI Division of Motor Vehicles, in coordination with DEM, in accordance with section 31-47.2-2 of the general laws. **Effect:** Establish an on-road diesel-testing program, followed by an annual inspection in authorized public and fleet inspection stations. **Impacted/Interested Parties:** Heavy-duty diesel truck and bus owners and repairers. **Contact:** Thomas Barry, Office of Air Resources, 222-2808.

Rhode Island Low Emission Vehicle Program (APC Reg. No. 37)

Proposal: Develop regulations, in accordance with section 23-23-5(22) of the general laws, as part of a regional effort to adopt the advanced technology vehicle provisions of California's Low-Emission Vehicle II Program. **Effect:** Require the largest automobile manufacturers to dedicate a portion of their sales to advanced technology vehicles, thereby expanding the market available for gas/electric hybrids, fuel-cell vehicles, electric vehicles, etc. **Impacted/Interested Parties:** Auto manufacturers, auto dealers, and light-duty motor vehicle purchasers. **Contact:** Thomas Barry, Office of Air Resources, 222-2808.

Rhode Island Low Emission Vehicle Program (APC Reg. No. 37)

Purpose: Develop regulations, in accordance with section 23-23-5(22) of the general laws, as part of a regional effort to prevent heavy-duty engine manufacturers from producing higher emitting engines in 2005 and 2006. **Background:** In 1998, the EPA and the U.S. Department of Justice signed consent decrees with heavy-duty engine manufacturers that required manufacturers to comply with strict emission limitations for 2002 - 2004. EPA has promulgated similar standards to apply in 2002 and beyond. Consequently, manufacturers would be allowed to produce higher polluting engines in 2005 and 2006. California has signaled its intent to adopt the stricter standards for 2005 and 2006. When California does this, other states can adopt identical standards under Section 177 of the Clean Air Act. **Effect:** Adopting California's approach along with other states, will prevent manufacturers from backsliding on their

consent decree commitments in 2005 and 2006 and provide critical near-term reductions in NOx and particulate matter from the heavy-duty sector.

Impacted/Interested Parties: Heavy-duty diesel engine manufacturers.

Contact: Thomas Barry, Office of Air Resources, 222-2808.

Water

Freshwater Wetlands

Purpose: Develop regulations, in accordance with chapter 2-1 of the general laws, based on the recommendations of the Wetlands Task Force. **Effects:** Establish reduced permit fees for habitat and water quality improvement projects; clarify DEM and CRMC regulatory jurisdictions; allow for emergency permits for private property owners; establish a simplified permit fee schedule; establish a reorganized, clearer rule format; remove barriers to pre-application meetings with wetlands program staff; and introduce new tiers of applications with reduced requirements for applicants who are near but outside DEM jurisdiction, and for those proposing certain minor activities.

Impacted/Interested Parties: Developers, property owners, environmental community. **Contact:** Carol Murphy, Office of Water Resources, 222-3961.

ISDS

Purpose: Facilitate the transition to soils-based approach and update technical standards, in accordance with chapters 23-19.5 and 5-56.1 of the general laws.

Effects: Address the validity of existing field data in light of the new site-evaluation requirements; establish a means to size leach fields using information from a site evaluation; update the technical and protective standards governing septic tanks, grease traps, leach fields, etc.; clarify and streamline various administrative requirements; and address the phasing out of large-scale cesspools. **Impacted/Interested parties:** ISDS designers and engineers, property owners, developers. **Contact:** Ernest Panciera, Office of Water Resources, 222-3961.

Groundwater Quality

Purpose: Update and simplify the rules governing subsurface discharge, in accordance with chapter 46-13.1 of the general laws. **Effects:** Update the statewide classification map and designation of wellhead protection areas; promote consistency and clarify with respect to site remediation activities; and clarify certain siting restrictions regarding Class I Underground Injection Control Sites. **Impacted/Interested Parties:** Developers, as well as contractors

involved in site remediation activities. **Contact:** Ernest Panciera, Office of Water Resources, 222-3961.

Water Quality

Purpose: Develop regulations in response to DEM's triennial review of the water quality regulations as required by the federal Clean Water Act, in accordance with chapter 46-12 of the RI general laws. **Effect:** Establish consistency with recent changes to federal water quality criteria; streamline the public notice/comment/hearing processes for water quality certifications. **Impacted/Interested Parties:** Wastewater treatment facilities, industries that discharge to surface waters, and applicants for water quality certifications. **Contact:** Connie Carey, Office of Water Resources, 222-3961.

RIPDES (Stormwater)

Purpose: Develop regulations to conform with federal requirements governing stormwater discharges, in accordance with chapter 46-12 of the RI general laws. **Effect:** Require municipalities (via a multi-year, phased program) to plan for stormwater management and mitigation as needed to achieve water quality goals. **Impacted/ Interested parties:** Municipalities. **Contact:** Eric Beck, Office of Water Resources, 222-3961.

Wastewater Treatment Facilities

Purpose: Develop regulations to reflect new policies, advancements in technologies, and operational practices associated with operation and maintenance programs, in accordance with chapter 46-12 of the general laws. **Effect:** Update and streamline the regulatory review process to reflect new technologies and operational standards for wastewater treatment facilities. **Impacted/Interested Parties:** Operators of wastewater treatment facilities. **Contact:** Warren Towne, Office of Water Resources, 222-3961.

Pretreatment Regulations

Purpose: Modify regulations to conform to recent changes made to federal pretreatment regulations, in accordance with chapter 46-12 of the RI general laws. **Effect:** Clarify/streamline procedures that municipalities and industries must follow to implement changes to their pretreatment programs. **Impacted/Interested Parties:** Municipalities (14) and industries with pretreatment programs. **Contact:** Eric Beck, Office of Water Resources, 222-3961.

State Revolving Fund (SRF) Program

Purpose: Repeal obsolete regulations associated with procedural elements of SRF Program, in accordance with chapter 46-12.2 of the general laws. **Effect:** Eliminate obsolete requirements associated with the Certificate of Approval application package and State Environmental Review Process.

Impacted/Interested Parties: Communities and quasi-state governmental units. **Contact:** Jay Manning, Office of Water Resources, 222-3961.

Pawtuxet River Authority Bond Fund

Purpose: Draft regulations governing application and award of grants, in accordance with chapter 46-12 of the general laws and P.L. 90-434, Art. 2, Sec. 1.

Background: In 1990, voters authorized \$9 million in state bond proceeds, to be used by Cranston, Warwick, and West Warwick for water quality improvements to the Pawtuxet River. After years of inactivity due to the referendum's incorrect wording, management and implementation of the fund was assigned to DEM. **Effect:** Establish guidelines for the application and award of 90% matching grants totaling \$3 million to each community, for use in constructing improvements associated with advanced treatment at the communities' wastewater treatment facilities. **Impacted/Interested Parties:** Cranston, Warwick, and West Warwick; also the Pawtuxet River Authority. **Contact:** Jay Manning, Office of Water Resources, 222-3961.

Natural Resources

Open Space/Recreation Bond

Purpose: Implement regulations governing distribution of funds under \$34 million Open Space and Recreation Bond passed in November 2000, in accordance with P.L. 55, 2000, chapter 31, art. 5. **Effect:** Will establish criteria for the distribution of \$7.5 million to municipalities for the development of recreational facilities; \$11.4 million to municipalities for the acquisition of open space; \$10.8 million for state land acquisition and agricultural land preservation; and \$3 million for state recreational development. **Impacted/Interested Parties:** Municipalities, land trusts, and other land protection organizations. **Contact:** Bob Sutton, Division of Planning and Development, 222-2776.

State Parks and Management Areas

Purpose: Update the regulations governing activities in state parks and management areas, e.g., camping, hunting, use of firearms, boating, dog controls, feeding of wildlife, etc. **Effect:** Elimination of duplicate and conflicting regulatory provisions under Section 32-2-4 of the general laws. Also, new provisions governing responsibilities of people who bring their dogs into parks and management areas, and new prohibition on feeding waterfowl in parks and management areas. **Impacted/ Interested Parties:** All uses of state parks and management areas. **Contact:** John Faltus, Division of Parks and Recreation, 222-2632.

Farm, Forest and Open Space

Purpose: Update and amend the regulations under the Farm, Forest and Open Space Act (chapter 44-27 and sections 44-5-39 through 44-5-41 of the general laws) to address concerns of tax assessors, environmental groups, and property owners. The changes to be made will stem from recommendations developed by a subcommittee of the State Conservation Committee. **Effect:** Clarify operating procedures to ensure consistency of application of law - i.e., local tax rates - throughout the state. **Impacted/Interested Parties:** Municipalities, and property owners seeking tax breaks in return for protecting farm, forest, and open space lands. **Contact:** Tom Dupree, Division of Forest Environment, 647-4389; Ken Ayars, Division of Agriculture, 222-2781.

Fish and Wildlife Agent Licensing Program

Purpose: Develop regulations, in accordance with chapter 20-2 of the general laws, to codify the administrative process associated with the sale of recreational fishing and hunting licenses by vendors serving as agents for the state. **Effect:** Establish regulatory structure for the operational procedures governing the sale of licenses by vendors (essentially codifying the administrative process currently in place). **Impacted/Interested Parties:** All vendors (approximately 100). **Contact:** Margaret McGrath, Office of Management Services, 222-6825.