

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**



**RULES AND REGULATIONS FOR  
HAZARDOUS WASTE MANAGEMENT**

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**TABLE OF CONTENTS**

<b>1.00</b>	<b>FINDINGS AND POLICY .....</b>	<b>3</b>
<b>2.00</b>	<b>ORGANIZATION AND METHOD OF OPERATIONS.....</b>	<b>4</b>
<b>3.00</b>	<b>DEFINITIONS .....</b>	<b>5</b>
<b>4.00</b>	<b>VARIANCES.....</b>	<b>24</b>
<b>5.00</b>	<b>GENERATORS.....</b>	<b>26</b>
<b>6.00</b>	<b>TRANSPORTERS .....</b>	<b>34</b>
<b>7.00</b>	<b>ISSUANCE, RENEWAL AND CONDITIONS OF FACILITY PERMITS .....</b>	<b>44</b>
<b>8.00</b>	<b>GENERAL REQUIREMENTS FOR ALL FACILITIES .....</b>	<b>54</b>
<b>9.00</b>	<b>OPERATIONAL REQUIREMENTS FOR TREATMENT, STORAGE AND DISPOSAL FACILITIES .....</b>	<b>59</b>
<b>10.00</b>	<b>LAND DISPOSAL FACILITIES .....</b>	<b>63</b>
<b>11.00</b>	<b>INCINERATOR FACILITIES.....</b>	<b>65</b>
<b>12.00</b>	<b>MISCELLANEOUS UNITS .....</b>	<b>66</b>
<b>13.00</b>	<b>UNIVERSAL WASTE.....</b>	<b>66</b>
<b>14.00</b>	<b>MIXED WASTE .....</b>	<b>76</b>
<b>15.00</b>	<b>USED OIL MANAGEMENT STANDARDS.....</b>	<b>77</b>
<b>16.00</b>	<b>CORRECTIVE ACTION .....</b>	<b>112</b>
<b>17.00</b>	<b>APPEALS AND PENALTIES .....</b>	<b>114</b>
	<b>APPENDIX 1 - ACUTE ORAL LD<sub>50</sub> (RATS).....</b>	<b>115</b>
	<b>APPENDIX II - OSHA INDUSTRIAL CHEMICALS WITH SERIOUS CUMULATIVE EFFECTS.....</b>	<b>116</b>

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

**1.00 FINDINGS AND POLICY**

- 1.01 Purpose:** These 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.
- 1.02 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, 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.
- 1.03 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.
- 1.04 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.
- 1.05 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.
- 1.06 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.
- 1.07 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.

## 2.00 ORGANIZATION AND METHOD OF OPERATIONS

**2.01 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.

### **2.02 Adoption by Reference:**

- A. 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.
- B. 40 CFR parts 260 through 273 are incorporated by reference in their entirety, except as otherwise noted in these Rules and Regulations. Any term used within these Rules and Regulations not specifically defined within Rule 3.00 shall be defined as in the Federal regulations. Federal statutes and regulations that are cited in 40 CFR 260 through 273, that are not adopted by reference shall be used as guidance in interpreting the Federal regulations in 40 CFR Parts 260 through 273.
- C. The following provisions are incorporated by reference with the following modifications:
  - 1. In 40 CFR 261.4(e)(3)(iii), delete "in the Region where the sample is collected".
  - 2. In 40 CFR 262.42(a)(2), delete "for the Region in which the generator is located".
  - 3. 40 CFR 268.9(d) is incorporated by reference, except that wherever "EPA region or authorized State" appears, replace it with "EPA region one or State of Rhode Island".
- D. 40 CFR part 260 is incorporated by reference in its entirety except as provided below and elsewhere 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"
- E. 40 CFR Part 262 is incorporated by reference in its entirety except as provided below and elsewhere in these regulations:

1. The small quantity generator provisions of 40 CFR 262.20(e), 40 CFR 262.42(b), and 40 CFR 262.44 do not apply, except for provisions of Rule 5.02(B) and (C) or as provided in Rules 5.05 and 5.06.

**2.03 Permit Conditions:** All permits, except transporter permits and RAPs (Remedial Action Plans), must incorporate restrictions which are equivalent to 40 CFR Parts 264 (excluding 264.301(l) and Appendix VI to Part 264), 270.30, 270.31, 270.32 and 270.33. RAPs shall comply with the terms and conditions in 40 CFR 270 Subpart H, as modified by Rule 16.02 of these regulations.

### **3.00 DEFINITIONS**

Notes: Any term used within these regulations not specifically defined within this section shall be defined as in 40 CFR 260.10. Relative to the definitions, "Existing tank system or existing component" and "New tank system or new tank component", in 40 CFR 260.10, the reference to "July 14, 1986", relative to the commencement of tank installation, applies only to a tank system owned or operated by a small quantity generator or any tank system (aboveground, onground, inground, or underground) that cannot be entered for inspection. Relative to a tank system (aboveground, onground, inground, or underground) that is not owned or operated by a small quantity generator and which can be entered for inspection, substitute "December 1, 1992" wherever "July 14, 1986" appears in these two definitions in 40 CFR 260.10.

***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 which 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 which 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 which include the following 40 CFR sections: 262, Subpart E and 263, Subpart B regarding exports of hazardous waste; 268.5, 268.6, and 268.42(b) plus 268.44(a-m) 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 in which the facility is located, or his/her designee.

**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.

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

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

**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 which 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 hazardous waste treatment, storage or disposal facility which has received an EPA permit (or a facility with interim status) in accordance with 40 CFR Parts 270 and 124, a permit from a State authorized in accordance with 40 CFR Part 271, or that is regulated under 40 CFR 261.6 (c) (2) or 40 CFR 266 Subpart F and that has been designated on the manifest by the generator pursuant to Rule 5.03 (J) of these regulations.

**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.

**Electric lamp** shall mean the bulb or tube portion of a lighting device specifically designed to produce radiant energy, most often in the ultraviolet (UV), visible, and infrared (IR) regions of the electromagnetic spectrum. Examples of common electric lamps include, but are not limited to incandescent, fluorescent, high intensity discharge, and neon lamps.

**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 which are incorporated by reference, shall mean the "Department" or the "Department of Environmental Management, except as follows:

- A. References to "EPA Identification numbers", "EPA hazardous waste numbers", "EPA test methods", "EPA publications", "EPA form(s)", "EPA Guidance", or "EPA Acknowledgement of Consent".
- B. 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).
- C. 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 which cannot be delegated to any state, including Rhode Island and which include the following 40 CFR sections: 262, Subpart E & Subpart H and 263, Subpart B regarding exports of hazardous waste; and 268.5, 268.6, and 268.42(b) plus 268.44 (a-m) regarding land disposal restrictions.
- D. Usage in the term "EPA region" in 40 CFR 260.

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

**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.

**Hazardous waste** shall mean any waste or combination of wastes of a solid, liquid, contained gaseous, or semi-solid form which, 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.

Such wastes include, but are not limited to, those which are toxic, corrosive, flammable, or reactive; and which are listed as "Rhode Island Wastes" in Rule 3.00 of these regulations.

**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. Where the phrase *solid waste* appears in the Code of Federal Regulations, the word *waste* may be substituted. The small quantity generator provisions of 40 CFR 261.5 do not apply in Rhode Island, except for the provisions of Rule 5.02 (B) and (C) or as provided in Rules 5.05, 5.06, and 13.06B. The provisions of the household waste exemption contained within 40 CFR 261.4 (b) (1) do apply in Rhode Island, except as limited by Rule 5.00 of these regulations and except as provided in Rule 13.06B.

Mixed waste as defined in Rule 3.00 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.

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.

The publications listed in 40 CFR 260.11 are incorporated by reference.

***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 at which 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. Facilities which accept household hazardous waste only, pursuant to Rule 5.00 of these regulations, are not deemed to be hazardous waste treatment or storage facilities.

***Household hazardous waste*** shall mean waste which has been segregated from household waste as defined in 40 CFR 261.4(b)(1) and which would otherwise meet any of the definitions of a hazardous waste. 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.

***Household refuse*** shall mean refuse generally produced at a home.

***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 which 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 which 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 which 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 which 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 at which 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 Handler of Universal Waste*** shall mean a universal waste handler (as defined in this section) who accumulates 20,000 kilograms or more total of cathode ray tubes or their display devices, calculated collectively at any time, or who accumulates 5,000 kilograms (11,000 pounds) or more total of all other universal waste (batteries, pesticides, thermostats, mercury-containing devices, or mercury-containing lamps, calculated collectively at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which 20,000 kilograms or more total of cathode ray tubes and their display devices, 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 which contains source material, special nuclear material, or byproduct material, and which 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 Rhode Island Uniform Hazardous Waste Manifest provided by the Department or any other manifest (including manifests in electronic form) approved by the United States Environmental Protection Agency or the Department for identifying, but not limited to, the quantity, composition, type and the origin, routing and destination of hazardous waste from the point of generation, to the point of treatment, storage, or disposal.

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

**Mercury-containing device** shall mean any electrical product or component, excluding batteries, lamps, and thermostats, which contains elemental mercury that is necessary for its operation and is housed within an outer metal, glass, or plastic casing. Mercury-containing devices include, but are not limited to, thermometers, barometers, electric switches and relays, thermocouples, manometers, and sphygmomanometers.

**Mercury-containing lamp** shall mean an electric lamp in which mercury is purposely introduced by the manufacturer for the operation of the lamp. For the purposes of universal waste management, mercury-containing lamps include fluorescent lamps and high intensity discharge (HID) lamps, including mercury vapor, metal halide and high pressure sodium lamps which would otherwise be a characteristic hazardous waste.

**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.

**On site** shall mean the same or geographically contiguous property which 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 which 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.

**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 which 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.

**Pesticide** shall mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that:

- A. Is a new animal drug under the Federal Food, Drug, and Cosmetic Act (FFDCA) section 201(w), or
- B. Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug, or
- C. Is an animal feed under FFDCA section 201(x) that bears or contains any substances described by paragraph (a) or (b) of this section.

**Precious metal bearing wastes** shall mean all materials destined for reclamation containing a concentration of gold, silver, rhodium, palladium and/or platinum which 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 which 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 which 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 Wastes** shall mean any waste meeting the below-listed definitions of R001 through R005 and R010.

Note: The waste codes R001 through R005 and 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. Rhode Island Fee Exemption Waste Codes (Waste codes R011-R016) indicate the waste is exempt from the Hazardous Waste Generation Fee described in Rules 5 and 6 of these regulations and are to be used **in addition** to other applicable federal and state hazardous waste codes. Also, RI waste codes R006 and R007, indicating the waste meets the definition of Extremely Hazardous Waste, shall be used in addition to applicable federal codes.

- A. **Type 1A - Highly Toxic Waste (R001)** shall mean a waste which meets any of the following criteria:
1. The elutriate obtained by applying the *Toxicity Characteristic Leaching Procedure* to a representative sample of the waste has an acute oral LD<sub>50</sub> in the rat of 0 to 50 mg/kg of body weight determined according to the protocol in Appendix 1, as calculated using a recognized reference or, where a recognized reference is not available, as actually measured; or
  2. A quantitative analysis of a liquid waste reveals that it contains a substance which in the concentration present in the waste causes the waste to have a *waste LD<sub>50</sub> (calculated)* of 50 mg/kg or less, as listed in a reference source approved by the Director.
- B. **Type 1B - Moderately Toxic Waste (R001)** shall mean a waste which meets any of the following criteria:

1. The elutriate obtained by applying the *Toxicity Characteristic Leaching Procedure* to a representative sample of the waste has an acute oral LD<sub>50</sub> in the rat of greater than 50 but less than 500 mg/kg of body weight determined according to the protocol in Appendix 1, as calculated using a recognized reference or, where a recognized reference is not available, as actually measured; or
  2. A quantitative analysis of a liquid waste reveals that it contains a substance which in the concentration present in the waste causes the waste to have a *waste LD<sub>50</sub> (calculated)* of greater than 50 mg/kg but less than 500 mg/kg of body weight as listed in a reference source approved by the Director.
- C. ***Type 1C - Slightly Toxic Waste (R001)*** shall mean a waste which meets any of the following criteria:
1. The elutriate obtained by applying the *Toxicity Characteristic Leaching Procedure* to a representative sample of the waste has an acute oral LD<sub>50</sub> in the rat of greater than 500 but less than 5000 mg/kg of body weight determined according to the protocol in Appendix 1, as calculated using a recognized reference or, where a recognized reference is not available, as actually measured; or
  2. A quantitative analysis of a liquid waste reveals that it contains a substance which in the concentration present in the waste causes the waste to have a *waste LD<sub>50</sub> (calculated)* of greater than 500 but less than 5,000 mg/kg body weight as listed in a reference source approved by the Director.
- D. ***Type 2A - Highly Reactive Waste (R002)*** shall mean a waste which in itself is readily capable of initiating a detonation, or of explosive decomposition, or of a reaction at normal temperature and pressures, or which reacts explosively with water, or which is a forbidden explosive as defined in 49 CFR 173.54, or 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.
- E. ***Type 2B - Moderately Reactive Waste (R002)*** shall mean a waste which in itself is capable of initiating a detonation or explosive reaction, but requires a strong initiating source, or which must be heated under confinement before initiation, or which may react violently with water or oxidizable materials or which may form potentially explosive mixtures with water or oxidizable materials, or which may generate toxic fumes such as cyanide and sulfide bearing wastes.
- F. ***Type 2C - Slightly Reactive Waste (R002)*** shall mean a waste which in itself or when mixed with water is normally unstable or readily undergoes chemical change, but does not detonate or cause explosive reactions.
- G. ***Type 3A - Highly Flammable Waste (R003)*** shall mean:

1. Any liquid or gaseous material which is a liquid while under pressure, having a flash point below 73°F and a boiling point less than 100°F, or
  2. Any compressed gas or mixture for which a mixture of 13% or less (by volume) with air forms a flammable mixture, or the flammable range with air is wider than 12% regardless of the lower limit, or
  3. Any non-liquid as described in 40 CFR 261.21 (a) (2), or
  4. Any ignitable compressed gas as described in 40 CFR 261.21 (a) (3), or
  5. Any oxidizer as described in 40 CFR 261.21 (a) (4).
- H. ***Type 3B - Moderately Flammable Waste (R003)*** shall mean:
1. A liquid having a flash point less than 73°F and a boiling point at or above 100°F, and those having a flash point at or above 73°F and a boiling point less than 100°F, or a liquid that ignites spontaneously in dry or moist air at or below 130°F, or
  2. Any compressed flammable gas or mixture having in the container an absolute pressure exceeding 40 psi at 70°F, or regardless of the pressure at 70°F, having an absolute pressure exceeding 104 psi at 130°F, or any liquid flammable materials having a vapor pressure exceeding 40 psi absolute at 100°F.
- I. ***Type 3C - Slightly Flammable Waste (R003)*** shall mean:
1. Liquids having a flash point at or above 73°F, but not exceeding 200°F.
  2. Solid or semi-solids which readily gives off flammable vapors below 100°F.
- J. ***Type 4 - Corrosive Waste (R004)*** shall mean any non-aqueous waste, when mixed 50% by weight with distilled water, or any gaseous material such that a 2 molar aqueous solution, yields a pH less than or equal to 2.0, or greater than or equal to 12.5, as measured with a pH meter using the protocol specified in EPA's "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods, SW-846.
- K. ***Type 5 - Rhode Island Special Hazardous Waste (R005)*** shall mean a waste which may not meet any of the other criteria set forth in this rule but which may still 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.
- L. ***Type 6 - Extremely hazardous waste (R006)*** shall mean any waste that:

1. 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
2. contains any TERATOGEN as identified by EPA's Integrated Risk Information System (IRIS) in concentrations or amounts at or above the federally regulated level or at 0.1% by weight, whichever is more stringent, of any solid or liquid mixture, or
3. 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
4. contains a substance which has an acute oral rat LD<sub>50</sub> less than or equal to 2 mg/kg in a reference approved by the Director at or above 0.1% by weight of any solid or liquid mixture, or
5. 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, or
6. contains Industrial Chemicals selected due to their serious cumulative effects by OSHA and listed in Appendix II at or above 1% by weight of any solid or liquid mixture. However, if the industrial chemicals are less than 1% soluble, this rule only applies to these chemicals when they are soluble in the waste, or
7. PCB waste (R007) shall mean any waste that contains polychlorinated biphenyls at a concentration of fifty parts per million (50 ppm) or greater, or shows ten micrograms per one hundred square centimeters (10 micrograms/100 cm<sup>2</sup>) as measured by standard wipe tests. 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.

M. *Rhode Island Waste Codes* shall be as follows:

#### **Rhode Island Characteristic Wastes (R001-R007)**

Codes R001 – R005 and R010 are to be used only when the waste does not satisfy any of the federal criteria of a hazardous waste. R006 and R007, indicating the waste meets the definition of Extremely Hazardous Waste, shall be used in addition to applicable federal codes.

1. Any waste meeting any of the definitions of *Toxic Waste* under items A, B, or C of this rule shall be designated as an **R001** waste.
2. Any waste meeting any of the definitions of *Reactive Waste* under items D, E, or F of this rule shall be designated as an **R002** waste.
3. Any waste meeting any of the definitions of *Flammable Waste* under items G, H, or I of this rule shall be designated as an **R003** waste.
4. Any waste meeting the definition of *Corrosive Waste* under item J of this rule shall be designated as an **R004** waste.
5. Any waste meeting the definition of *Rhode Island Special Hazardous Waste* under item K of this rule shall be designated as an **R005** waste.
6. Any waste meeting the definition of *Extremely Hazardous Waste* under item L of this rule shall be designated as an **R006** waste, except as described in item 7, below.
7. Any PCBs or PCB-contaminated material which meet the definition of *Extremely Hazardous Waste* under item L (7) of this rule shall be designated as an **R007** waste.
8. 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, shall be designated as an **R010** waste.

#### **Rhode Island Fee Exemption Waste Codes (R011-R016)**

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

9. **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.
10. **Precious metal bearing waste** meeting the definition of a precious metal bearing waste as defined by Section 3 of the Rules and Regulations shall be designated as an **R012** waste. This waste code shall be used in addition to other required waste codes.
11. **Household hazardous waste** meeting the definition of a household hazardous waste as defined by Section 3 of the Rules and Regulations shall be designated as an **R013** waste. This waste code shall be used in addition to other required waste codes.

12. Used oil or related materials that are managed in accordance with the requirements of Rule 15.00 shall be designated as an **R014** waste.
13. Waste not meeting the definition of a hazardous waste that is required to be on a Manifest by the destination state shall be designated as an **R015** waste. This waste code shall be used in addition to other waste codes required by the destination state.
14. 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.

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.

***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.

***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 at or near any point of generation where the waste initially accumulates, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with the requirements of 40 CFR 262.34(a) and without any storage time limit, provided that the generator complies with 40 CFR 262.34(c)(1)(i) and marks and labels his containers as required by Rule 5.04C. Accumulations in excess of these amounts are subject to the requirements of 40 CFR 262.34(c)(2) and to the marking and labeling requirements of Rule 5.04A.

***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.

***Small Quantity Handler of Universal Waste*** shall mean a universal waste handler (as defined in this section) who does not accumulate 20,000 kilograms or more total of cathode ray tubes or their display devices, 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, thermostats, mercury-containing devices, or mercury-containing lamps), 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) which 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 at which solid wastes have been routinely and systematically released. SWMUs include regulated units as well as units used to manage nonhazardous 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 I of Rule 15.03(e).

***“State(s)”*** (or "authorized state" or "approved state" or "approved program") as used in the portions of the Code of Federal Regulations which 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 which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is designed to hold an accumulation of liquid wastes or waste containing free liquids, and which 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 which is constructed primarily of non-earthen materials which provide structural support.

**Thermostat** shall mean a temperature control device that contains metallic mercury in an ampule attached to a bi-metal sensing element, and mercury-containing ampules that have been removed from these temperature control devices in compliance with the requirements of 40 CFR 273.13(c)(2) or 273.33(c)(2).

**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.

**Toxicity Characteristic Leaching Procedure** shall mean the procedure referenced in 40 CFR 261 Appendix II.

**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 in which 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:

- A. Batteries as described in 40 CFR 273.2;
- B. Pesticides as described in 40 CFR 273.3;
- C. Thermostats as described in 40 CFR 273.4;
- D. Cathode ray tubes (CRTs) as described in Rule 13.02 of these regulations;
- E. Mercury-containing devices as described in Rule 13.03 of these regulations; and
- F. Mercury-containing lamps as described in Rule 13.04 of these regulations.

***Universal Waste Handler:***

- A. shall mean:
  - 1. A Generator (as defined in Rule 3.00) 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 under the provisions of 40 CFR 273.13(a) or (c), or 273.33(a) or (c)), 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 Oil*** means oil that has been refined from crude oil (in whole or in part), or any synthetic oil which, 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), which are subject to the waste characterization requirements under Rule 5.08 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 1** in Rule 15.03 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 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 1 of Rule 15.03.

***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 15.08.

***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 LD<sub>50</sub> (calculated)** shall mean the value arrived at by applying to either the elutriate obtained from the *Toxicity Characteristic Leaching Procedure* or to a liquid waste the following equation:

$$\frac{I}{\text{WasteLD}_{50}} = \frac{C_1}{(LD_{50})_1} + \frac{C_2}{(LD_{50})_2} + \dots + \frac{C_n}{(LD_{50})_n}$$

where C = The concentration of a substance in a sample of the liquid waste or in the elutriate obtained by applying the *Toxicity Characteristic Leaching Procedure* to non-liquid waste (expressed as a fraction), and

LD<sub>50</sub> = Oral rat LD<sub>50</sub> listed in a recognized source (mg/kg).

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

**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. All references to Title 40 of the Code of Federal Regulations are 40 CFR as of July 1, 2004.

**49 CFR ...** shall mean that section or subsection of the Code of Federal Regulations, Title 49, Transportation. All references to Title 49 of the Code of Federal Regulations are 49 CFR as of October 1, 2004.

## 4.00 VARIANCES

**4.01. 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.

**4.02. 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:

- A. will provide protection of health and the environment equivalent to that which is 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).

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.

**4.03. Permit Variances:** In addition to the requirements of Rule 4.02, the Director or his designee must 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 in which 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.

**4.04. Department's Evidence:** The Department through its authorized agents may present evidence to the Director or his designee relative to any application.

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

- 4.06. 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.

## **5.00 GENERATORS**

These rules shall apply to all generators of hazardous waste. Rhode Island does not recognize federal exemptions for small quantity generators and the small quantity generator provisions of 40 CFR 261.5, 262.20(e), 262.42(b) and 262.44 do not apply in Rhode Island, except for provisions of Rule 5.02(B) and (C) or as provided in Rules 5.05, 5.06, and 13.06B. Facilities which accept household hazardous waste only, for subsequent off-site management in accordance with these regulations, will be considered to be generators, subject to the requirements of this section.

- 5.01 Identification:** The generator shall apply for and obtain an EPA I.D. No. and shall not offer waste for shipment without an EPA I.D. No. All generators included in the federal system must apply to the Department for an EPA I.D. No. Small generators and others not included in the federal system but covered under Rhode Island rules and regulations must also apply for an EPA I.D. No. through the Department. Temporary EPA I.D. No.'s may be obtained from the Department.

### **5.02 Storage:**

- A. Any material designated as a hazardous waste stored on site by a generator for a period not to exceed 90 days, excluding satellite accumulation as defined in Rule 3.00, shall be termed 90 day accumulation. Such accumulated waste shall be excluded from storage permit requirements provided that it is managed in accordance with the provisions of these Rules and Regulations and in accordance with the provisions of 40 CFR 262.34, 264.175, and 265.15(d), except for 40 CFR 262.34 (d), (e), and (f). These regulations include, but are not limited to, requirements for personnel training, preparedness and prevention, contingency plans, secondary containment, and documentation of inspection of each hazardous waste storage area. Also, such waste must be properly disposed within the 90 day accumulation period.
- B. Generators of less than 1000 kg/month of hazardous waste (inclusive of generators of less than 100 kg/month), accumulating hazardous waste in tanks, that do not accumulate over 3000 kg on site at any time (90 day maximum storage), and that do not exceed the limits regarding generation of acute hazardous waste set out in 40 CFR 261.5 (e) (1) and (2), shall not be subject to 40 CFR 265, Subpart J (Tank Systems), except for 40 CFR 265.201.
- C. Generators of less than 1000 kg/month of hazardous waste (inclusive of generators of less than 100 kg/month), that do not accumulate over 3000 kg on site at any time (90 day maximum storage), and that do not exceed the limits regarding generation of acute hazardous waste set out in 40 CFR 261.5 (e) (1) and (2), shall not be subject to 40 CFR

265, Subpart CC (Air Emission Standards for Tanks, Surface Impoundments, and Containers).

- D. A small quantity generator or large quantity generator (as defined in 40 CFR 260.10) who generates wastewater treatment sludges from electroplating operations that meet the listing description for the RCRA hazardous waste code F006, may accumulate F006 waste 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 F006 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 (note: Any small quantity generator who accumulates more than 1,000 kilograms (2200 pounds) per month of F006 waste or who accumulates more than 6,000 kilograms (13,200 pounds) of F006 waste on site at any time, immediately becomes a large quantity generator.); and
  4. The F006 waste is managed in accordance with the following:
    - (a) The F006 waste is placed:
      - (i) In containers and the generator complies with the applicable requirements of subparts I, AA, BB, and CC of 40 CFR part 265; and/or
      - (ii) In tanks and the generator complies with the applicable requirements of subparts J, AA, BB, and CC of 40 CFR part 265, except §§ 265.197(c) and 265.200; and/or
      - (iii) In containment buildings and the generator complies with subpart DD of 40 CFR part 265, 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 must maintain the following records at the facility:
        - (aa) 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

- (bb) 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 Rule 5.04 labeling requirements; and
- (d) The generator complies with the requirements for owners or operators in subparts C and D in 40 CFR part 265, with 40 CFR 265.16, and with 40 CFR 268.7(a)(5).

**5.03 Waste Shipment:** The generator shall send hazardous waste only to a designated facility. The generator must not send hazardous waste from the property on which it is generated, on site, without preparing a manifest to accompany the waste, except where 40 CFR 262.20(f) applies, nor shall he offer hazardous waste to a facility which 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 sticker 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:

- A. The generator must package the waste in accordance with 49 CFR 173, 178 and 179.
- B. 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 on which it is generated. The generator shall complete this section in accordance with the requirements of 40 CFR 262.21 and the requirements of these rules and regulations. The generator will also note in item 15 of the manifest if the waste is an R006 waste under paragraph (L) of the “Rhode Island Wastes” definition in Rule 3.00 of these regulations.
- C. The generator must complete the generator section of a Rhode Island Uniform Hazardous Waste Manifest or other approved manifest prior to the shipment of the waste. The Department may charge the generator a fee for the Department’s distribution of Rhode Island Uniform Hazardous Waste Manifests to the generator. If the generator uses other than a Rhode Island Uniform Hazardous Waste Manifest, he must include all of the

information required on the Rhode Island Manifest. Relative to hazardous waste generated in or destined for any state having a manifest reciprocity protocol with Rhode Island, the generator may use either the generator's state manifest or the destination's state manifest. Otherwise, the generator must use the destination state's manifest if that state supplies the manifest and requires its use, and if not, the generator must use the Rhode Island Manifest. The generator may use Uniform Hazardous Waste Manifest Continuation Sheets (EPA Form 8700-22A), provided that it is allowed by the state in which the designated facility is sited. Generators desiring to use these continuation sheets shall create them in accordance with federal specifications, as shown in the Appendix of 40 CFR Part 262.

- D. After the hazardous waste transporter has signed the manifest, the generator shall remove the appropriate copy and either return it to the Department within five days or alternately, submit the information on this copy electronically in a format and in a time frame acceptable to the Department. The generator shall also remove the destination state's copy and mail it to the state in which the designated facility is located within five days. If the designated facility is in the state of Rhode Island, the generator shall either mail it to the State within five days or alternately, submit the information on this copy electronically in a format and in a time frame acceptable to the Department. Relative to any generator located in a state that does not employ an 8-copy manifest (as used in Rhode Island) and where that generator will use his state's manifest, the generator shall make additional photocopies of the generator-completed manifest and label those copies as "generator to destination state" and "generator to generator state", as appropriate, which will serve the same function as copies 6 & 7 of the Rhode Island manifest.
- E. 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.
- F. A generator must 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.
- G. A generator sending or receiving waste to or from a foreign country shall comply with 40 CFR 262 Subpart E or 40 CFR 262 Subpart F.
- H. A generator shipping wastes via water or rail must comply with the provisions of 40 CFR 262.23 (c) or (d) and 40 CFR 263.20 (e) or (f).
- I. 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 must 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 greater than 1000 kilograms" in (a)(1-2)].

- J. A generator must designate on the manifest one designated facility, which is permitted to handle the waste described on the manifest.
- K. A generator may also designate on the manifest one alternate designated facility which is permitted to handle his waste in the event an emergency prevents delivery of the waste to the primary designated facility.

#### **5.04 Labeling**

- A. The generator shall label the side of all hazardous waste containers, excluding satellite accumulation, in accordance with the provisions of 49 CFR 172 and include the following:
  - 1. The words "Hazardous Waste".
  - 2. Generator's name and address of generating facility.
  - 3. The USDOT shipping name and the generic names of the principal hazardous waste components (if the proper USDOT shipping name is not conclusive in identifying the hazardous waste).
  - 4. The EPA or Rhode Island waste code.
  - 5. Date of containerization (accumulation start date). The accumulation start date is the date that hazardous waste first begins accumulating in a container or tank, exclusive of satellite accumulation.
  - 6. The Hazardous Waste Manifest Number (prior to being shipped off-site).
- B. The generator must label and mark every container, excluding those in satellite accumulation, in accordance with the provisions of 40 CFR 262.32 and must comply with respect to the initial hazardous waste transporter, with the requirements of 40 CFR 262.33.
- C. Satellite accumulation: The generator must include on each container in satellite accumulation, per Rule 3.00, the words "Hazardous Waste" and other words that identify the contents of the container.
- D. The generator must label the side of each hazardous waste tank per 40 CFR 262.34(a)(3) requirements and must record the accumulation start date for each hazardous waste tank.

**5.05 Biennial Reports:** The generator (except for any small quantity generator, as defined in 40 CFR 260.10) must prepare and submit a biennial report (on appropriate forms provided by the Department) in accordance with the provisions of 40 CFR 262.41. The generator must submit this report to the Department by April 1 of the even-number year, which reports hazardous waste activities for the immediately preceding odd-number year. All generators may also be required to submit other reports at the request of the Director.

- 5.06 Record Keeping:** The generator shall keep all pertinent records relating to the generation of hazardous waste for a period of three years in accordance with the provisions of 40 CFR 262.40 or for such longer periods as is required in an unresolved enforcement action. These records shall include but not be limited to Copies 3 and 8 of each Rhode Island manifest (or if another state's manifest is used, the copy that the generator retains and the copy that the designated facility sends to the generator), a copy of each biennial report (excluding any small quantity generator, when not requested by the Director to prepare and submit a biennial report), a copy of each waste analysis and a copy of any tests and other determinations made regarding the content of the waste. All such records shall be made available to the Department, upon inspection or request.
- 5.07 Permits:** No permit shall be required for the generation of hazardous waste. The generator shall, however, obtain all required permits for its hazardous waste management activities not specifically exempted by the Rhode Island Hazardous Waste Management Act or these rules and regulations.
- 5.08 Hazardous Waste Determination:** The generator must determine if any of his wastes meet any of the definitions of a hazardous waste. He must first determine if his waste meets any of the federal definitions of hazardous waste as required by 40 CFR 262.11. If the waste does not meet any of the federal definitions, the generator must then determine if any of the Rhode Island waste types apply, as defined under the "Rhode Island Wastes" definition in Rule 3.00 of these regulations. Regardless of any advisory opinions or statements from any laboratory or government agency, it remains the generator's responsibility to properly characterize his wastes. Testing employed by the generator to determine if a material is hazardous waste must be an approved method set forth in 40 CFR 260.11 or 40 CFR 261 Subpart C. Equivalent testing methods are not allowed.
- 5.09 Authorized Agents:** The generator shall submit to the Department the names and signatures of all agents of the generator authorized to sign the manifest.
- 5.10 Notification of Spills or Releases:** In the event of an actual or threatened spill or release of hazardous waste or material which presents any risk of injury to health or the environment, the generator or any other person having knowledge of the actual or threatened spill or release shall notify the Department immediately, and will provide all requested information dealing with such a spill or release. In all cases, the generator shall immediately take steps to prevent, contain and/or clean up the spill or release of hazardous waste or material.
- 5.11 Inspections; Right of Entry:** 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 which 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 at a hazardous waste management facility.

**5.12 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 on waste generated. This fee shall apply to all wastes that are generated in Rhode Island and shipped on a hazardous waste manifest. The fee shall be collected by the hazardous waste transporter and in turn shall be paid to the Department as specified in Rule 6.16.
- B. Waste bearing Rhode Island Fee Exemption Waste Codes (R011-R016) as defined in Rule 3 are exempted from the fee

## **6.00 TRANSPORTERS**

These rules shall apply to all transporters of hazardous waste and Septage, except as follows:

- A. On-site transportation of hazardous waste, per 40 CFR 263.10(b), and on-site transportation of used oil or Septage.

### **6.01 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 which 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 must be managed in accordance with the Department's rules and regulations.
  - 3. The transportation of animal waste produced at farms.
  - 4. A transporter transporting 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 3.00, and being managed as a universal waste.

- A. 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.
- B. The hazardous waste, used oil or Septage transporter's permit will be issued for a period not to exceed one year.
- C. The hazardous waste, used oil or Septage transporter's temporary permit will be issued for a period not to exceed thirty-one days.
- D. The permit or temporary permit will be granted or renewed only for those hazardous waste, used oil or Septage transportation units which are listed on the permit application and which pass self inspection. A permit sticker, or temporary permit sticker, as appropriate, will be issued for each transportation unit which passes the inspection. This sticker is not transferable to any other transportation units. The transporter must maintain his permitted transportation units in compliance with inspection requirements, per Rule 6.07, at all times. The Department reserves all rights to conduct inspections by Department personnel to verify and ensure compliance with regulatory requirements.
- E. A permitted hazardous waste transporter may also transport shipments of used oil in accordance with the requirements of Regulation 15.00.

**6.02 Permit Application Requirements**

- A. Applications for a transporter permit or temporary permit must be submitted to the Director on forms provided by the Department and accompanied by the appropriate permitting fee (as specified in Rule 6.01) per transportation unit identified on the permit application. All transportation units used in the transportation of hazardous waste, used oil or Septage must be included on the permit application.
- B. All transporter applications must 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 must be submitted by the applicant consistent with R.I.G.L. 23-19.1-10 (e). Each criminal background check must 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 sanitary septage need maintain liability insurance only sufficient to provide coverage of \$300,000.00 (three hundred thousand dollars) per incident.
- D. The hazardous waste transporter shall apply for and obtain an EPA I.D. No. Hazardous waste transporters, covered by the federal system must apply directly to the Regional Office of the Environmental Protection Agency. Hazardous waste transporters not covered under the federal system must apply for an EPA I.D. No. through the Department.

### **6.03 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, as indicated in item 15 of the hazardous waste manifest, on the following roads:

<b>Town(s)</b>	<b>Road</b>	<b>From</b>	<b>To</b>
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 Peepload 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 6.03 (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 6.08, 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 which are received in Rhode Island or which 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 5.04 of these rules and regulations.
- 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 sticker(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 must comply with all generator rules and regulations.
- J. Hazardous waste transporters who deliver hazardous wastes to other hazardous waste transporters must comply with the provisions of 40 CFR 263.20 (d).
- K. Transporters of hazardous wastes to foreign countries must 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 must be delivered to a properly licensed POTW for disposal, unless the Department has given written permission for an alternate method of disposal.
- O. Transporters hauling Septage shall submit to the Department a yearly Septage transporter report identifying the source, quantity and destination of all Septage transported in the calendar year. The report shall be prepared in accordance with the Department's standard for quarterly operating reports. The report for each calendar year shall be due on March 1<sup>st</sup> of the following year.

**6.04 Manifest Handling**

- A. The transporter of hazardous waste shall not accept any hazardous waste, except sanitary septage or used oil, unless the generator section of the manifest has been completed by the generator.
- B. The hazardous waste transporter shall inspect the waste before accepting the waste to ensure the following:
  - 1. The number of containers match the number indicated in the generator section of the manifest.
  - 2. All containers are labeled as required by Rule 5.04.
  - 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 and liquid tight.
- C. The hazardous waste transporter shall complete the transporter's section of the manifest, sign the manifest, and leave the manifest copies referenced in Rules 5.03 (D) and 5.03 (E) with the generator.
- D. The hazardous waste transporter shall keep the completed manifest, minus the copies referred to in Rules 5.03 (D) and 5.03 (E), 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 Rhode Island manifest (or if another state's manifest is used, the appropriate copy to be retained by the transporter) 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 must deliver the hazardous waste only to the facility designated on the manifest. If this is not possible, he must 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.

**6.05 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.

**6.06 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.

**6.07 Inspections**

- A. The transporter must 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.

## **6.08 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 which is readily available in case of emergency.
  3. First-aid supplies which 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.
1. 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.
  2. 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.
  3. 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 which 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.

- 6.09 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.
- 6.10 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.
- 6.11 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.
- 6.12 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.
- 6.13 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 such small leaks as may occur when hoses are disconnected.
- 6.14 Storage and Transfer Areas**
- A. Hazardous waste and used oil storage and transfer areas shall be provided with secondary containment capabilities equivalent to those required by 40 CFR 265.193 (e) (1).
  - B. A permitted transporter of hazardous waste may store such waste in their vehicle at their business location without a Hazardous Waste Transporter's Hazardous Waste Temporary Storage and Transfer Station 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.

3. The vehicle has a permit to transport hazardous waste.
- C. Transporters shall obtain a Hazardous Waste Transporter's Hazardous Waste Temporary Storage and Transfer Station Letter of Authorization for the following activities:
1. Transferring of hazardous waste or used oil or temporary storage that includes transferring of hazardous waste or used oil at locations for up to seventy-two (72) hours, excluding Sundays and federal and Rhode Island legal holidays, at locations included on the application.
  2. Such a facility would not have to obtain a hazardous waste treatment and storage facility permit as provided for in Section 7 of these regulations for any activities allowed in the Letter of Authorization, but must operate the facility in accordance with any terms or conditions included in the Letter. Letters of Authorization under this section must be renewed annually, and are not transferable.
- D. 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.
- E. All hazardous waste and used oil storage activities, with the exception of those allowed under Rule 6.14 (B), (C), and (D) or Rule 15.00, will require a storage permit from the Department, per Rule 7.00 requirements.

#### **6.15 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 which 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. 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).

**6.16 Hazardous Waste Generation Fee:**

- A. The hazardous waste transporter shall collect a fee for waste that is generated in Rhode Island and shipped on a hazardous waste manifest.
- 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 6.17. The fees shall be collected and deposited in the Department’s Emergency Response Fund.
- C. Waste bearing Rhode Island Fee Exemption Waste Codes (R011-R016) as defined in Rule 3 are exempted from the fee.

**6.17 Reporting requirements:**

The hazardous waste transporter shall submit quarterly reports for all waste that is picked up from generators in Rhode Island on 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.

**6.18 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.

**7.00 ISSUANCE, RENEWAL AND CONDITIONS OF FACILITY PERMITS**

These rules shall apply to treatment, storage and disposal facilities, excluding facilities which accept, treat, and/or store only precious metal bearing waste. Precious metal bearing waste facilities shall be subject to the requirements of 40 CFR 266 Subpart F.

## **7.01 FACILITIES**

A. **Permits and Approvals** - All persons who shall construct, substantially alter or operate a hazardous waste treatment, storage or disposal facility or who shall treat, store or dispose of hazardous waste must first obtain an operating permit or approval from the Director for such activities and must have such permits during the active life of the facility, and for any unit which closes after 26 January 1983, for any post-closure care period required under these rules. When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit, except that the owner must also sign the permit application, as required per 40 CFR 270.10(b). The following shall not require a permit or approval, nor shall the following be required to be in compliance with Rule 9 of these regulations:

1. The storage of hazardous waste on-site by a generator in accordance with Rule 5.02 of these regulations.
2. The re-use, recycling or reclamation of hazardous waste as referred to in the "Hazardous Waste" definition in Rule 3.00 of these regulations.
3. The treatment of waste at facilities which neutralize and/or treat aqueous waste at the site of generation where such treatment 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, unless otherwise required by the Director, except for those operations at the facility which are not covered by either of the aforementioned laws.

Note: Any sludge or other waste materials generated from the treatment of such aqueous waste must be managed as a hazardous waste if such sludge or waste material meets the criteria of a hazardous waste.

4. The use of any totally enclosed treatment facility, per 40 CFR 270.1(c)(2)(iv).
5. The use of any elementary neutralization unit, per 40 CFR 270.1(c)(2)(v) and that meets 40 CFR 265.1(c)(10) requirements.
6. The combining of waste and absorbent material in a container that meets 40 CFR 270.1(c)(2)(vii) requirements.

Note: Rule 7.01 A.4-6 procedures must be carried out in systems where equipment has been designed, engineered, and constructed so as to protect human

health and the environment, and complies with all other requirements within OSHA standards.

**B. Permit Restrictions for Landfills and/or Incinerators**

1. Operating permits will be granted only for those incinerator or landfill facilities for which the application can show, by a preponderance of evidence, will be located, designed, constructed and operated so as to prevent all of the following:
  - (a) Endangerment of an underground drinking water source beyond the facility boundary.
  - (b) Endangerment of an aquifer which has been designated by any federal or Rhode Island state agency as a sole source aquifer.
  - (c) Contamination 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.
2. 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.
3. 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 in which 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 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.

C. **Trial Burn Permits** - The operator of an incinerator facility, prior to the receipt of an operating permit for the incineration of hazardous waste, must obtain from the Director a trial burn permit in accordance with the requirements of 40 CFR 270.62. Trial burn plans, required by 40 CFR 270.62 must include a waste analysis in accordance with 40 CFR 264.341 and with the standards of 40 CFR 264.344.

D. **Emergency Permits** - The Director may, where he finds an imminent and substantial endangerment to human health or the environment, issue a temporary emergency permit to a non-permitted facility to allow the treatment, storage or disposal of hazardous waste or to a permitted facility to allow the treatment, storage or disposal of

hazardous waste not covered by an effective permit, subject to the requirements of 40 CFR 270.61.

- E. **Existing Facilities** - Existing facilities, those in operation on or before 19 November 1980, may continue to operate with the approval of the Director, until the Department renders a decision on their permit application. These facilities must be in compliance with the standards of 40 CFR 265, except for the following:

In 40 CFR 265.191(a), 265.191(c), and 265.193, compliance relative to the January 12, 1988, July 14, 1986, and January 12, 1987 dates, respectively, is applicable only to a tank system owned or operated by a 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 small quantity generator and which is a tank system (aboveground, onground, inground, or underground) that can be entered for inspection, "January 12, 1988", "July 14, 1986" and "January 12, 1987" shall be replaced with "December 1, 1992", wherever this date occurs in 40 CFR 265.191(a), 265.191(c), and 265.193, respectively. Where the sentence "If the facilities covered by the mechanism are in more than one Region, identical evidence of financial assurance must be submitted to and maintained with the Regional Administrators of all such Regions." appears in 40 CFR 265.143(g) and 265.145(g), replace it with the sentence "If the facilities covered by the mechanism are in more than one State, identical evidence of financial assurance must 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". Any facility in existence on the effective date of statutory or regulatory amendments that render the facility subject to permitting requirements under these regulations shall be considered an existing facility under this rule.

- F. **Ocean Disposal and Underground Injection Control** - Disposal of hazardous wastes by ocean disposal and underground injection control (UIC) is prohibited.
- G. **Publicly Owned Treatment Works** - The owner or operator of a publicly owned treatment works which accepts hazardous waste for treatment is not required to apply for a permit and is deemed to have a permit under this section provided that such owner or operator complies with the requirements of 40 CFR 270.60 (c).

**7.02 Permit Specifications**: All permits shall specify the following:

- A. The name and location of the facility.
- B. A complete description of the operations at the facility requiring a permit with particular attention paid to any operational limitations and design capacity.
- C. A complete description of the hazardous wastes stored and/or treated at the facility.
- D. All monitoring requirements including specified methods and equipment.
- E. All reporting requirements of operational and monitoring activities.

**7.03 Compliance Schedules**

- A. New facilities, those commencing operations after 19 November 1980, must be in compliance with all of these rules and regulations prior to the receipt of an operating permit.
- B. Existing facilities, those in operation on or before 19 November 1980, may receive a permit prior to compliance with all of these rules and regulations only in those instances where a compliance schedule is an integral part of the permit.
- C. Compliance schedules shall require compliance as soon as possible and shall, where entire compliance exceeds one (1) year, establish interim compliance requirements for periods less than one (1) year of duration.
- D. Progress reports concerning interim compliance requirements shall be submitted to the Director no later than fourteen (14) days following each period for which compliance requirements were established.

**7.04 Permit Posting:** 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 legible. The issuance of a permit does not convey any property rights of any sort or any exclusive privilege.

**7.05 Change of Ownership, Administration and/or Location:**

- A. 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.
- B. A permit shall immediately become void and shall be returned to the Director upon change in location of any facility.
- C. A permit shall become voidable whenever there is any sale or change in ownership or membership of the legal entity operating the facility. A new entity, prior to the

commencing of operation of the facility, shall submit to the Director information indicating its technical ability to safely operate the facility, as well as its financial ability to maintain said facility. This information shall also contain a proposed date for transfer of permit responsibility, coverage, liability between current and new permittees, and any additional information which the Director may request. After a review of this information, the Director shall either approve or disapprove the transfer of the permit. For changes in ownership or operation at existing facilities having interim status, the requirements of 40 CFR 270.72(a)(4) apply. For changes in ownership or operation at permitted facilities, the requirements of 40 CFR 270.40(b) apply.

- D. The original permittee shall remain fully liable under the terms of the permit and these regulations until the new owner or operator has been transferred the operating permit by the Director.

**7.06 Approval for New Areas and/or Services or Other Modifications:**

- A. The permit shall apply only to the facility in operation at the time the permit is issued.
- B. Permit modifications, as established in 40 CFR 270.41 shall require Department approval and shall be considered by the Department only in accordance with the limitations established by 40 CFR 270.41 and 40 CFR 124.5. A permittee's request for modifications shall require Department approval for all classes of modifications and shall be treated as a permit application and subject to these rules and regulations, to 40 CFR 270.42, and to applicable portions of 40 CFR 124.3.
- C. The submission of any application for modification of a permit does not stay any permit conditions.
- D. Modifications of existing facilities operating under Rule 7.01 (E) shall only be made in compliance with 40 CFR 270.72 (a) and (b), excluding 270.72(a)(1). The acceptance of new hazardous wastes at existing facilities will only be allowed at the Director's discretion.

**7.07 Separate Permits**

- A. Separate permits shall be required for facilities which are located in separate geographical areas even though they are under the same management.
- B. Separate permits may be issued for distinct parts of a facility which can be identified as separate units.

**7.08 Fees:** 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. Any additional charges, if any, shall be determined by R.I.G.L. Section 23-19.1-14, as is or as shall be amended.

## **7.09 Issuance, Denial, Revocation or Suspension of Permits**

- A. The Director is authorized by R.I.G.L. 23-19.1-10 to issue, revoke, or suspend a permit, or the Director may deny a permit. In doing so, the Director shall follow procedures established by these rules and regulations and by the applicable portions of 40 CFR 124.3 and 124.5.
- B. No person shall construct, substantially alter, or operate any hazardous waste management facility, nor shall any person store, transport, treat or dispose of any hazardous waste, except as exempted by these regulations, without first obtaining a permit from the Director for the facility or activity; nor shall any person accept or deliver hazardous waste from or to any person who does not possess a permit for hazardous waste management from the Director without the prior written approval of the Director. This section shall not be construed to require permits for the generation of hazardous waste.
- C. Permits issued under this section shall be issued pursuant to rules and regulations promulgated by the Director under the authority of § 23-19.1-6. The Office of Waste Management shall review the permit application and shall issue to the applicant a draft permit upon finding the application acceptable, or shall issue a notice of intent to deny an application for an unacceptable application per Rule 8.06. Within fifteen (15) days following the issuance of the draft permit or the issuance of a notice of intent to deny the application, the Office of Waste Management shall give public notice of an informational workshop and public comment hearing pertaining to the draft permit or the intent to deny the application. The public notice shall also be advertised on the radio and published in a newspaper of general circulation in the area affected, and the Office of Waste Management shall notify the applicant, all persons requesting the notification in writing, all property owners within five hundred feet (500') of the perimeter of the site of the facility by mail directed to the last known address, and the city or town in which the hazardous waste management facility is located, including the mayor or town manager and the town or city council president. The list of property owners within five hundred feet of the site shall be provided to the Office of Waste Management by the applicant. Public notices shall include information equivalent to that required by 40 CFR 124.10 (a) and (d) and be provided to those persons identified in 40 CFR 124.10 (c) (1). The Office of Waste Management shall also make available to the public information equivalent to that required by 40 CFR 124.6 and 124.8. This draft permit required by 40 CFR 124.6 shall be made available, and the fact sheet required by 40 CFR 124.8 shall be provided, to those persons identified in 40 CFR 124.10 (c) (1).
- D. Within fifteen (15) days after the date of the public notice of issuing the draft permit or the intent to deny the application, 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 which is the subject of the draft permit or the

intent to deny the application; the type and quantity of wastes which 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, which 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.

- E. No earlier than sixty (60) days nor later than seventy-five (75) days following the initial public notice of the issuance of the draft permit or tentative denial of the application, a hearing shall be held for public comment. Comments from the applicant and/or any interested persons shall be recorded at the public hearing. Written comments, which shall be considered part of the record, may be submitted for thirty (30) days prior to the public comment hearing and thirty (30) days following the close of the public comment hearing, which shall constitute the public comment period.
- F. Within ninety (90) days after the close of the public comment period, the Office of Waste Management 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 include 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 which the applicant did not satisfy. Permits shall be issued only under conditions of proof of financial responsibility, posting of surety bonds, evidence of adequate liability insurance, and/or 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 in which the facility or proposed facility is located or proposed to be located.
- G. 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, subject to that Division's rules and regulations and pursuant to the rules and regulations established by the Director. All appeals must be in writing and must be filed with the clerk of the Administrative Adjudication Division within thirty (30) calendar days of receipt of the contested permitting action. All appeals shall be heard before Division of Administrative Adjudication hearing officers.
- H. Permits may be revoked or suspended upon the initiative of any interested third party, but only for the causes identified in 40 CFR 270.41 or 270.43 or in R.I.G.L. 23-19.1-10.

- I. 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, in lieu of revocation of the permit of that facility, order the permittee to take whatever corrective action is needed to secure compliance with the rules and regulations established by the Department.
- J. Permits may not be issued, nor shall public notice of a draft permit be issued under Rule 7.09 (C), for any facility whose application does not contain all of the substantive elements required by Rules 8.01-8.04, inclusive.

#### **7.10 Inspections**

- A. The Department shall make or cause to be made such inspections, take such tests and samples and to make such investigations as it deems necessary.
- 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 for which an application has been received or for which a permit has been issued. Any application shall constitute permission for or 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 or permittee 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 require the submission of reports. Refusal to allow reasonable inspections, tests or investigations or to submit reports shall constitute valid grounds for denial or revocation of a permit. Records, reports and information acquired through inspection, testing and investigation shall not be open to public inspection and their contents shall not be disclosed by the Director, except in the performance of the provisions of these rules and regulations or in the performance of his official duties.

#### **7.11 Inspection Reports and Correction of Deficiencies**

- A. Hazardous waste facilities shall 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 reasonable steps to minimize or correct any adverse impact on the environment resulting from non-compliance and shall not use a defense in any legal action that it would have been necessary to halt or reduce operations in order to maintain compliance.

#### **7.12 Duration of Permits: Permits for hazardous waste 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 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 must be received prior to 180 days from the expiration date of the present permit.

**7.13 Renewal of Permits:**

- A. The Office of Waste Management shall hold a public comment 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 hearing. Such notice shall be published in a newspaper of general circulation in the area affected, and shall notify the applicant, all persons requesting such notification in writing and all property owners within five hundred feet (500') of the perimeter of the site of the facility by mail directed to the last known address, and the city or town in which the hazardous waste management facility is located, including the mayor or town manager and the city or town council president. The list of property owners within five hundred feet of the site shall be provided to the Office of Waste Management by the applicant. The notice shall at least include the beginning and ending dates for the comment period hereafter, 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 for public comment. Comments from the applicant and/or any interested persons shall be recorded at the public hearing. Written comments, which shall be considered part of the record, may be submitted for thirty (30) days prior to the public comment hearing and thirty (30) days following the close of the public comment hearing, which 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 include 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 which the applicant did not satisfy. Renewal permits shall be issued only under conditions of proof of financial responsibility, posting of surety bonds, evidence of adequate liability insurance, and/or such 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 in which the facility or proposed facility is located or proposed to be located.
- E. A renewal (extension) of a RCRA permit by the Director is considered by EPA to be equivalent to a Class 3 permit modification and the Office of Waste Management also shall follow any additional requirements specified for Class 3 permit modifications in

## **8.00 GENERAL REQUIREMENTS FOR ALL FACILITIES**

### **8.01 Application Requirements**

- A. All applications for permits or approvals shall be submitted to the Department's Office of Waste Management and be accompanied by plans and specifications which adequately describe the facility. Additional copies may be required by the Department.
- B. All applications must be signed by the operator in accordance with the provisions of 40 CFR 270.11. In instances where the applicant is not the owner of the facility, the application must be co-signed by the owner.
- C. All applications must include a statement, signed by the same person(s) who signs the application, that the signatory(ies) certify(ies) the accuracy of all information contained within the application and makes himself subject to any penalties for inaccurate statements. The certification must contain wording equivalent to that provided for in 40 CFR 270.11 (d).
- D. The individual signing the application for the operator will also be required to sign any reports associated with the permit.
- E. A list of all owners of property, including addresses, within 500 feet of the perimeter of the facility must be included.
- F. The applicable requirements for the particular type of facility equivalent to those found in 40 CFR 270.17-21 must be included.
- G. Information must be submitted regarding protection of groundwater equivalent to that required by 40 CFR 270.14 (c) for the appropriate type facility.
- H. All applications for new facilities must be submitted to the Director at least 180 days prior to the expected commencement date of physical construction.
- I. Upon receipt of an application for a new facility, the Office of Waste Management shall notify both the chief executive officer and the city or town council president of the municipality in which the facility is proposed to be located of the receipt of such application.
- J. CFR 270.10(e)(iii) does not apply in the state of Rhode Island.
- K. Information must be submitted for Solid Waste Management Units equivalent to that required by 40 CFR 270.14(d).

**8.02 Documentation of Ownership:** Each application shall be accompanied by a list of the direct and indirect owners of the facility whether individual, partnership or corporation. If a corporation, the list shall include all officers, directors and other persons owning ten percent (10%) or more of the corporate stock.

**8.03 General Plan Requirements:** All required plans shall be stamped by a professional engineer or land surveyor, as appropriate, registered with the State of Rhode Island. The plans shall be scaled to fit a standard 24 x 36 inch sheet wherever possible and shall be submitted in duplicate.

**8.04 Plans and Specifications:** Each application shall include the following plans and specifications:

- A. A copy of the latest U. S. Geological Survey Topographical Map with the facility outlined on the survey.
- B. A site plan drawn to a minimum scale of one inch equals one hundred feet showing the following:
  1. On site
    - All structures
    - Location of operational units
    - Access control
  2. Within 500 feet of the perimeter of the facility
    - All property lines
    - All water lines
  3. Within 1,000 feet of the perimeter of the facility
    - Extent of the one hundred year flood plain, where applicable
    - Water courses
    - Watersheds of public surface water supplies
    - Public and private drinking water supply wells
    - Contours sufficient to show patterns of surface drainage
    - Barriers for drainage or flood control
    - Land uses
  4. A wind rose
  5. North arrow
  6. Map scale and date

- C. The EPA Identification Number (I.D. No.). For facilities covered by the federal system, this number must be obtained from the regional office of the Environmental Protection Agency. For facilities not covered under the federal system, this number must be obtained through the Department.
- D. Photographs of existing facilities.
- E. The name, address and telephone number of the operator of the facility.
- F. A description of the facility including processes to be used and design capacities.
- G. A groundwater monitoring plan capable of determining the facility's impact on the groundwater in the uppermost aquifer underlying the facility. This plan must supply information equivalent to that required by 40 CFR 264.90-100. The Director may waive this rule 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.
- H. A chemical and physical analysis of the hazardous wastes to be handled including the amounts of each waste and any handling information that should be known to properly handle waste in accordance with the provisions of 40 CFR Part 264.
- I. A copy of the waste analysis plan equivalent to the requirements of 40 CFR 264.13.
- J. A description of the security procedures and equipment required equivalent to the provisions of 40 CFR 264.14.
- K. A copy of the general inspection schedule equivalent to that required by 40 CFR 264.15.
- L. A description of the preparedness and prevention plans equivalent to that required by 40 CFR 264 Subpart C.
- M. A copy of the contingency plan equivalent to that required by 40 CFR 264 Subpart D.
- N. A description of procedures, structures or equipment used to:
  - 1. Prevent hazards in unloading.
  - 2. Prevent runoff from hazardous waste handling areas.
  - 3. Prevent contamination of water supplies.
  - 4. Mitigate effects of equipment failures and power outages.

- 5. Prevent undue exposure of personnel to wastes.
- O. A description of precautions to prevent accidental ignition or reaction if handling flammable, reactive and/or incompatible wastes or materials.
- P. The traffic pattern, estimated volume and control.
- Q. An outline of the introductory and continuing training programs by operators equivalent to that required by 40 CFR 264.16 to prepare personnel to operate or maintain the facility in a safe manner including a brief description of how training will be designed to meet actual job tasks in accordance with requirements.
- R. A copy of the closure plan that is in compliance with the requirements of 40 CFR 264 Subpart G and 40 CFR 270.14 (b) (13).
- S. The longitude and latitude of the facility.
- T. A closure cost estimate for the facility plus a copy of the financial assurance mechanism and a copy of the insurance policy or other documentation showing the amount of insurance carried by the facility per the requirements of 40 CFR 264 Subpart H and 40 CFR 270.14 (b) (15) & (16), except as follows:

Where the sentence "If the facilities covered by the mechanism are in more than one Region, identical evidence of financial assurance must be submitted to and maintained with the Regional Administrator of all such Regions." appears in 40 CFR 264.143(h) and 264.145(h), replace it with the sentence "If the facilities covered by the mechanism are in more than one State, identical evidence of financial assurance must 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.". The wording of documents required under Subpart H must be identical to the wording specified in 40 CFR 264.151, except that the following substitutions must be made:

<b>Where the 40 CFR 264.151 wording says:</b>	<b>Substitute:</b>
United States Environmental Protection Agency	Rhode Island Department of Environmental Management
EPA <sup>1</sup>	DEM
United States Government <sup>2</sup>	State of Rhode Island
EPA Regional Administrator or Regional Administrator <sup>3</sup>	Director
Region(s) in which the facility(ies) is (are) located	(delete)
Appropriate (when used with Regional Administrator)	(delete)
Identical (used in certifying language)	Equivalent
Resource Conservation and Recovery Act	Hazardous Waste Management Act of 1978
RCRA	HWMA

<sup>1</sup>Except when used in "EPA identification number" and when used in "EPA and/or a state".

<sup>2</sup>Except when referring to securities issued by the U. S. Government.

<sup>3</sup>Except 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 which are affected by the owner or operator's financial assurance mechanisms.

U. For facilities that store containers of hazardous waste:

1. The information required by 40 CFR 264.175 including a description of the containment system showing that the design and construction is in conformance with 40 CFR 264.175 (a) and including:
  - (a) Basic design parameters, dimensions and materials of construction.
  - (b) How the design promotes drainage or how containers are kept from contact with standing liquids.
  - (c) Capacity of containment system.
  - (d) Provisions for run-off control/prevention.
  - (e) How accumulated liquids can be analyzed and removed to prevent overflow.
2. Sketches, drawings or data demonstrating compliance with 1, above.
3. Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with 40 CFR 264.177.
4. Where flammable or reactive wastes are stored, a description of procedures used to ensure compliance with 40 CFR 264.176.

V. For facilities that use tanks to store or treat hazardous waste, a description of the design and operating procedures that are equivalent to the requirements of 40 CFR 264 Subpart J and 270.16.

W. A description of the manifest handling procedures of the facility.

X. An identification as to whether the facility is located in the 100 year flood plain.

Y. An indication of whether the facility is new or existing and whether the application is new or revised.

**8.05 Flood Plain Operations:** The application must describe how treatment and storage facilities located in the 100 year flood plain will be designed, constructed and operated in accordance with standards equivalent to those of 40 CFR 264.18 (b).

**8.06 Application Deficiencies:**

- A. For any application deemed deficient by the Department, the application shall be returned to the applicant, with a concise statement of the deficiencies.
- B. The Director may deny an application and not issue a draft permit, if the applicant does not adequately respond to Department-identified application deficiencies.
- C. The applicant may appeal the Director's decision to deny the application and not issue a draft permit to the Department's Administrative Adjudication Division. The appeal must be in writing and must be filed with the clerk of the Administrative Adjudication Division within thirty (30) calendar days of receipt of the contested application action.

## **9.00 OPERATIONAL REQUIREMENTS FOR TREATMENT, STORAGE AND DISPOSAL FACILITIES**

These rules, except Rules 9.16 and 9.20, apply to all facilities.

### **9.01 Notices**

- A. The owner or operator of a facility receiving hazardous wastes from a foreign source must notify the U. S. Environmental Protection Agency Regional Administrator in writing at least four (4) weeks in advance of the date each shipment is expected at the facility.
- B. The owner or operator of a facility receiving hazardous wastes from an off-site source (except where the operator is also the generator) must inform the generator in writing that he has the appropriate permit(s) for, and will accept, the waste the generator is shipping. The operator must keep a copy of this written notice as part of the operating record.

**9.02 Waste Analysis:** The owner or operator of the facility must maintain and comply with the waste analysis plan submitted as part of his application in accordance with Rule 8.04 (I) of these rules and regulations and in accordance with 40 CFR 264.13.

**9.03 Groundwater Monitoring:** The owner or operator of the facility must maintain and comply with the groundwater monitoring plan required by Rule 8.04 (G) of these rules and regulations and 40 CFR 264.90 -100, unless this requirement has been waived by the Director on the basis of the criteria in 40 CFR 264.90 (b) (3) and (4).

**9.04 Security:** The owner or operator of the facility must maintain a security program equivalent to 40 CFR 264.14.

**9.05 Inspection:** The owner or operator of the facility must maintain an inspection program equivalent to 40 CFR 264.15.

- 9.06 Personnel Training:** The owner or operator of the facility must provide for and maintain records of personnel training in a manner equivalent to 40 CFR 264.16.
- 9.07 Flammable, Reactive or Incompatible Wastes:** The owner or operator of the facility must take precautions to prevent the accidental ignition or reaction of flammable, reactive or incompatible wastes or materials equivalent to those described in 40 CFR 264.17 and Subpart C.
- 9.08 Preparedness and Prevention:** The facility owner or operator must comply with preparedness and prevention requirements equivalent to those in 40 CFR 264 Subpart C.
- 9.09 Contingency Plan and Emergency Procedures:** The facility owner or operator must complete a contingency plan as required by 40 CFR 264 Subpart D and comply with the conditions thereof.
- 9.10 Manifests:** The facility owner or operator must not accept any hazardous waste without a completed Rhode Island Uniform Hazardous Waste Manifest, or a completed generator's state manifest for hazardous waste from any generator whose state has a manifest reciprocity protocol with Rhode Island, and must process the manifest according to standards equivalent to 40 CFR 264.71. (Note: a facility accepting waste that is a hazardous waste in the generator's state, but is not a hazardous waste in Rhode Island, shall require use of the generator's state manifest, including generators located in states not having manifest reciprocity protocols with Rhode Island.) The facility owner or operator must report to the Director the attempted delivery of all unmanifested hazardous waste in accordance with 40 CFR 264.76. The facility owner or operator may use Uniform Hazardous Waste Manifest Continuation Sheets (EPA Form 8700-22A), provided that the state in which the generator is sited also approves of its use. Facilities desiring to use these continuation sheets shall create them in accordance with federal specifications. After signing the manifest, the owner or operator must mail a copy to the Department, a copy to the state where the waste was generated and a copy to the generator within five days of receipt, or sooner if required by another state. A copy must be retained for his records. With respect to sending a copy of the manifest to the Department, the owner or operator may alternately satisfy this requirement by submitting the information on the manifest 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. The facility 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 statement attesting to the accuracy and completeness of the information. This quarterly report shall include the following data for each manifest:

- Manifest number

- Generator EPA ID Number
- Generator Name
- Transporter(s) EPA ID Number
- Transporter(s) Name
- Waste Codes
- Waste Description
- Waste Quantity
- Date of Generation

- 9.11 Discrepancy Reports:** The facility owner or operator must handle manifest discrepancies in a manner equivalent to that described in 40 CFR 264.72.
- 9.12 Operating Records:** The facility owner or operator must maintain an operating record equivalent to that described in 40 CFR 264.73. For storage facilities this information must include, but is not limited to, a record of wastes received and wastes shipped, cross-referenced by manifest tracking number.
- 9.13 Record Availability:** The facility owner or operator must make available to the Director, upon request, all records including those required by 40 CFR 270.10 (i) which the Director feels pertinent to the enforcement of these rules and regulations, and the facility operator must maintain these records on file for a minimum of three (3) years. In the event of unresolved enforcement actions, the records must be maintained until released by the Director. Upon closure, these records, including those showing waste disposal locations, must be submitted to the local land authority and to the Director.
- 9.14 Biennial Report:** The facility owner or operator must prepare and submit to the Director a biennial report in accordance with the dates and containing information equivalent to that required by 40 CFR 264.75.
- 9.15 Authorized Agents:** The facility owner or operator shall submit to the Department the names and signatures of all agents of the operator authorized to sign the Manifest.
- 9.16 Closure and Post Closure:** The facility owner or operator must close his facility, except incinerators and certain land disposal facilities, in accordance with the closure plan and in a manner equivalent to that required by 40 CFR 264 Subpart G.

- 9.17 Financial Requirements:** The facility owner or operator must meet the financial requirements per 40 CFR 264 Subpart H using the wording contained in Rule 8.04 of these rules and regulations. Facility owners or operators choosing the trust fund described in 40 CFR 264.143 (a) must, for new facilities, deposit the full amount of the closure cost estimate when the trust fund is established or, for existing facilities, deposit the full amount within one year from the effective date of this rule.
- 9.18 Container Condition and Labeling**
- A. The facility owner or operator must manage containers in a manner equivalent to 40 CFR 264 Subpart I.
  - B. The facility owner or operator must make certain that the side of all hazardous waste containers of 110 gallons or less have attached a label with information as required by Rule 5.04 (C) of these rules and regulations.
- 9.19 Tank Construction, Design and Operation:** Tanks used for the storage and/or treatment of hazardous wastes must be designed, constructed, and operated in a manner equivalent to that required by 40 CFR 264 Subpart J except that in 40 CFR 264.191(a), 264.191(c), and 264.193, compliance relative to the January 12, 1988, July 14, 1986 and January 12, 1987 dates, respectively, applies only to a tank system owned or operated by a 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 small quantity generator and which is a tank system (aboveground, onground, inground, or underground) that can be entered for inspection, "January 12, 1988", "July 14, 1986", and "January 12, 1987" shall be replaced with "December 1, 1992", wherever this date occurs in 40 CFR 264.191(a), 264.191(c), and 264.193, respectively.
- 9.20 Flood Plain Location:** Owners and operators of all treatment and storage facilities located in the 100 year flood plain must, if applicable, comply with the procedures identified in Rule 8.05 of these rules and regulations.
- 9.21 Initiator:** Owners and operators of facilities that initiate a hazardous waste shipment must comply with Rules 5.00 - 5.11 of these rules and regulations.
- 9.22 Other Reports:** The owner or operator must report to the Director, in addition to the reports required by Rules 9.11 and 9.14 of these rules and regulations, all reports required by 40 CFR 264.77.
- 9.23 Proper Operation and Maintenance:** The permittee shall at all times properly operate and maintain the facility to achieve compliance with these rules and regulations. This includes adequate financing, staffing, training, laboratory and process controls and adequate back-up systems where necessary.

## **10.00 LAND DISPOSAL FACILITIES**

These rules apply only to land disposal facilities.

### **10.01 Design and Operational Requirements**

- A. Land disposal facilities must be designed, operated and maintained in accordance with the appropriate standards of 40 CFR 264 and these rules and regulations.
- B. Surface impoundments must be designed, operated and maintained in accordance with the standards of 40 CFR 264.221 - .230, 265.221, and 265.229.
- C. Waste piles must be designed, operated and maintained in accordance with the standards of 40 CFR 264.250 - .258.
- D. Land treatment facilities must be designed, operated and maintained in accordance with the standards of 40 CFR 264.270 - .282, 265.272, and 265.273.
- E. Landfills
  - 1. Landfills must be designed, operated and maintained in accordance with the standards of 40 CFR 264.300 - .316, 265.301, 265.310, and 265.315.
  - 2. Landfills must also be located, designed and constructed in accordance with the following:
    - (a) Landfills shall be designated as Class I, Class II, Class IIIA or Class IIIB.
    - (b) All landfills shall be designed and constructed to meet the following minimum requirements.
      - (i) 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.
      - (ii) The bottom liners shall be installed with a minimum slope of two percent and lead to collection sumps at all low points.
      - (iii) The boundaries of all active portions shall be at least 500 feet from any private water supply or livestock water supply.
      - (iv) Erosion, landslides and slumping shall be minimized.
      - (v) Separate cells shall be provided for incompatible wastes.

- (vi) There shall be gas collection and venting systems to prevent the lateral movement of gases generated within the landfill and to prevent the accumulation of these gases with confined structures on or adjacent to the landfill area.
3. 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 which consists of soils at least three feet thick and which 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 which meet the following requirements:
    - (i) Be of adequate strength and thickness to ensure mechanical integrity and have a minimum thickness of 30 mils.
    - (ii) Be resistant to attack from soil bacteria and fungi.
    - (iii) Has ample weather resistance to withstand the stress of extreme heat, freezing and thawing.
    - (iv) Has adequate tensile strength to elongate sufficiently and withstand the stress of installation and/or use of machinery and equipment.
    - (v) Be of uniform thickness, free from thin spots, cracks, tears, blisters and foreign particles.
    - (vi) Be placed on a stable base.
    - (vii) Has a permeability less than or equal to  $1 \times 10^{-12}$  cm/sec or its equivalent.
    - (viii) Be seamed in a manner which does not adversely affect any property of the membrane.

4. 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.
  5. 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 Rule 10.01 of these rules and regulations and 40 CFR 264.301 and 264 Subpart F.
- F. The Director may approve a design that affords protection equivalent to any of the classes in Rule 10.01 (E) of these rules and regulations. Prior to approving an equivalent design, the Director shall prepare a written opinion which 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 Rule 7.09 (B) and (E).
- G. Class I Landfills may not accept "Type 6 - Extremely Hazardous Waste", "Type 2A - Highly Reactive Waste", and "Type 3A - Highly Flammable Waste".
- H. Class II Landfills may not accept "Type 6 - Extremely Hazardous Waste", "Type 1A - Highly Toxic Waste", "Type 2A - Highly Reactive Waste", "Type 2B - Moderately Reactive Waste", "Type 3A - Highly Flammable Waste", "Type 3B - Moderately Flammable Waste", and "Type 5 - Rhode Island Special Waste".
- I. Class III Landfills may not accept "Type 6 - Extremely Hazardous Waste", "Type 1A - Highly Toxic Waste", "Type 1B - Moderately Toxic Waste", "Type 2A - Highly Reactive Waste", "Type 2B - Moderately Reactive Waste", "Type 3A - Highly Flammable Waste", "Type 3B - Moderately Flammable Waste", and "Type 5 - Rhode Island Special Waste".

**10.02 Closure and Post Closure:** The facility operator must close his facility in accordance with the closure plan and in a manner equivalent to that required by 40 CFR 264 Subpart G and whichever is applicable of 40 CFR 264.228, 264.258, 264.280 or 264.310.

## **11.00 INCINERATOR FACILITIES**

These rules apply only to incinerator facilities as determined by 40 CFR 264.340 (a).

### **11.01 Design and Operational Requirements**

- A. The owner or operator of incinerator facilities must design, operate and maintain them in accordance with the standards of 40 CFR 264.344 and 264.345.
- B. The owner or operator of incinerator facilities must design, operate and maintain them so that when operating they will achieve the destruction and removal efficiency and performance identified in 40 CFR 264.343.
- C. The owner or operator must identify the principal organic hazardous constituents (POHCs) in each waste stream of the trial burn plan required by Rule 7.01 (C) and must treat each to the extent required by 40 CFR 264.343.
- D. The owner or operator of the facility must close his facility in accordance with the closure plan and in a manner equivalent to that required by 40 CFR 264 Subpart G and 40 CFR 264.351.
- E. The owner or operator of the facility must maintain a monitoring and inspection program equivalent to the requirements of 40 CFR 264.347.

**11.02 Regulation Exemptions:** The owners or operators of incinerator facilities operated exclusively for the incineration of hazardous wastes described in 40 CFR 264.340 (b) and (c) need not comply with Rules 11.01 and 6.03 of these rules and regulations.

### **12.00 MISCELLANEOUS UNITS**

These rules apply to miscellaneous units as defined in 40 CFR 260.10.

**12.01 General and Operational Requirements:** Miscellaneous units must comply with all applicable sections of Rules 8.00 and 9.00, as are or as amended.

**12.02 Additional Regulations for Miscellaneous Units:** All miscellaneous units must comply with the requirements of 40 CFR 264 Subpart X and 40 CFR 270.23.

### **13.00 UNIVERSAL WASTE**

**13.01 Requirements for Universal Waste:** The wastes listed in this rule are exempt from regulation under 40 CFR 262 through 270 except as specified in 40 CFR 273 and, therefore are not fully regulated as hazardous waste. The wastes listed in this rule are subject to regulation under 40 CFR Part 273:

- A. Batteries as described in 40 CFR 273.2
- B. Pesticides as described in 40 CFR 273.3

- C. Thermostats as described in 40 CFR 273.4
- D. Cathode ray tubes (including the display devices containing the cathode ray tubes) as described in Rule 13.02 of these regulations.
- E. Mercury-containing devices as described in Rule 13.03 of these regulations.
- F. Mercury-containing Lamps as described in Rule 13.04 of these regulations.

**13.02 Applicability – Cathode ray tubes:** The requirements of 40 CFR Part 273 apply to persons managing cathode ray tubes, as defined in these Rules.

- A. **Generation of Waste, Cathode ray tubes:** A waste cathode ray tube is a hazardous waste if it exhibits one or more of the characteristics identified in 40 CFR part 261, Subpart C. A used cathode ray tube becomes a waste on the date it is discarded. An unused cathode ray tube 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 cathode ray tubes:
  - 1. Cathode ray tubes that are not yet wastes under 40 CFR 261: Rule 13.02(A) describes when cathode ray tubes become wastes.
  - 2. Cathode ray tubes that are not hazardous waste: A cathode ray tube is a hazardous waste if it exhibits one or more of the characteristics identified in 40 CFR part 261, Subpart C.

**13.03 Applicability – Mercury-containing devices:** The requirements of 40 CFR Part 273 apply to persons managing mercury-containing devices, as defined in these Rules.

- A. **Generation of Waste, Mercury-containing devices:** A waste mercury-containing device is a hazardous waste if it exhibits one or more of the characteristics identified in 40 CFR part 261, Subpart C. A used mercury-containing device becomes a waste on the date it is discarded. An unused mercury-containing 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 mercury-containing devices:
  - 1. Mercury-containing devices that are not yet wastes under 40 CFR 261: Rule 13.03(A) describes when mercury-containing devices become wastes.
  - 2. Mercury-containing devices that are not hazardous waste: A mercury-containing device is a hazardous waste if it exhibits one or more of the characteristics identified in 40 CFR part 261, Subpart C.

**13.04 Applicability - Mercury-containing lamps:** The requirements of 40 CFR Part 273 apply to persons managing mercury-containing lamps, as defined in these Rules.

- A. Generation of Waste, Mercury-containing lamps: A waste mercury-containing lamp is a hazardous waste if it exhibits one or more of the characteristics identified in 40 CFR part 261, Subpart C. A used mercury-containing lamp becomes a waste on the date it is discarded. An unused mercury-containing lamp 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 mercury-containing lamps:
  - 1. Mercury-containing lamps that are not yet wastes under 40 CFR 261: Rule 13.04(A) describes when mercury-containing lamps become wastes.
  - 2. Mercury-containing lamps that are not hazardous waste: A mercury-containing lamp is a hazardous waste if it exhibits one or more of the characteristics identified in 40 CFR part 261, Subpart C.

**13.05 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 13.01:

- 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.

**13.06 Standards For Universal Waste Management:** 40 CFR Part 273 is incorporated by reference in its entirety, except 273.1(a)(4), 273.5, 273.9 “Lamp” definition, 273.13(d), 273.14(e), 273.33(d), 273.34(e) [since the Department retains its own regulations for mercury-containing lamps, rather than adopting the federal regulations regarding such lamps] 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 “(4) Cathode ray tubes as defined in these Rules.”
2. add “(5) Mercury-containing devices as defined in these Rules.
3. add “(6) Mercury-containing lamps as defined in these Rules.”

**B. 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)(a) Persons who are household hazardous waste collection facilities, as described in Rule 5.00, and who handle wastes of the types described in the “Universal Waste” definition in Rule 3.00, shall either handle those wastes in compliance with all requirements applicable to hazardous waste generators as provided in Rule 5.00 or shall handle those wastes as universal wastes per the requirements of this part.
- (1)(b) Persons who generate household waste as defined in 40 CFR 261.4(b)(1) and who generate wastes of the types described in the “Universal Waste” definition in Rule 3.00 shall either handle those wastes as non-hazardous solid wastes or as universal wastes per the requirements of this part.
- (1)(c) Persons who are federal conditionally exempt small quantity generators as defined in 40 CFR 261.5 and who generate wastes of the types described in the “Universal Waste” definition in Rule 3.00 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.
- (2) Persons who commingle regulated universal wastes with wastes of the types described in the “Universal Waste” definition in Rule 3.00 from households or from federal conditionally exempt small quantity generators, shall handle the commingled wastes as hazardous wastes or universal wastes per the requirements of this part.

**C. 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 3.00 definition of “Large Quantity Handler of Universal Waste”.
2. replace the definition of “Small Quantity Handler of Universal Waste” with the Rule 3.00 definition of “Small Quantity Handler of Universal Waste”.

3. delete “(4) Lamps as described in §273.5” from the definition of universal waste and add to the definition of “Universal Waste” “(4) Cathode ray tubes as defined in these Rules.”
  4. add to the definition of “Universal Waste” “(5) Mercury-containing devices as defined in these Rules.”
  5. add to the definition of “Universal Waste” “(6) Mercury-containing lamps as defined in these Rules.”
- D. **CFR 273.11 – Prohibitions.** The provisions are incorporated by reference with the following changes:
1. add “(c) Prohibited from 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 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.”
- E. **40 CFR 273.13 - Waste Management.** The provisions are incorporated by reference with the following changes:
1. add “(d) *Universal waste cathode ray tubes.* A small quantity handler of universal waste must manage universal waste cathode ray tubes in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
    - (1) A small quantity handler of universal waste must contain any universal waste cathode ray tube that shows evidence of breakage, leakage, spillage, or damage that could cause the release of glass particles under reasonable foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the cathode ray tubes, and must lack evidence of breakage, leakage, spillage, or damage that could cause the release of glass particles under reasonably foreseeable conditions.
    - (2) A small quantity handler of universal waste must contain unbroken cathode ray tubes in packaging that will minimize breakage during normal handling conditions.
    - (3) A small quantity handler of universal waste must contain cathode ray tubes in packaging that will minimize releases of tube fragments and residues.
    - (4) A small quantity handler of universal waste may conduct the following activities:

- (i) Sort display devices/cathode ray tubes by type.
  - (ii) Manage different types of display devices/cathode ray tubes in the same container.
  - (iii) Test display devices/cathode ray tubes to determine if they are capable of being returned to service.
  - (iv) Remove cathode ray tubes from display device casings.”
2. add “(e) *Universal waste mercury-containing devices*. A small quantity handler of universal waste must manage universal waste mercury-containing devices in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- (1). A small quantity handler of universal waste must contain any universal waste mercury-containing device that shows evidence of leakage, spillage, or damage that could cause leakage under reasonable foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the mercury-containing devices, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
  - (2). A small quantity handler of universal waste may:
    - (i) Mix different types of universal waste mercury-containing devices, or universal waste mercury-containing devices and universal waste thermostats in one container; or
    - (ii) Remove mercury-containing ampules from universal waste mercury-containing devices provided that the handler complies with 40 CFR 273.13(c)(2)(i)-(viii) and (c)(3)(i)-(iii).”
3. add “(f) *Universal waste mercury-containing lamps*. A small quantity handler of universal waste must manage universal waste mercury-containing lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- (1). A small quantity handler of universal waste must contain any universal waste mercury-containing lamp that shows evidence of leakage, spillage, or damage that could cause leakage under reasonable foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the mercury-containing lamps, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(2). A small quantity handler of universal waste must contain unbroken mercury-containing lamps in packaging that will minimize breakage during normal handling conditions.

(3). A small quantity handler of universal waste must contain mercury-containing lamps in packaging that will minimize releases of lamp fragments and residues.”

F. **40 CFR 273.14 – Labeling/markings.** The provisions are incorporated by reference with the following changes:

1. add “(e) Universal Waste cathode ray tubes (i.e. each cathode ray tube), or a container in which the cathode ray tubes are contained, must be labeled or clearly marked with any one of the following phrases: “Universal Waste – Cathode Ray Tube(s),” or “Waste Cathode Ray Tube(s),” or “Used Cathode Ray Tube(s).”

2. add “(f) Universal waste mercury-containing devices (i.e., each mercury-containing device), or a container in which the mercury-containing devices are contained, must be labeled or clearly marked with any one of the following phrases: “Universal Waste – Mercury-Containing Device(s),” or “Waste Mercury-Containing Device(s),” or “Used Mercury-Containing Device(s).”

3. add “(g) Universal waste mercury-containing lamps (i.e., each mercury-containing lamp), or a container in which the mercury-containing lamps are contained, must be labeled or clearly marked with any one of the following phrases: “Universal Waste – Mercury-Containing Lamps(s),” or “Waste Mercury-Containing Lamp(s),” or “Used Mercury-Containing Lamp(s).”

G. **40 CFR 273.15 – Accumulation time limits.** The provisions are incorporated by reference with the following changes to 273.15(c)(2):

1. after “battery” delete “or”, add “,”, after “thermostat” add “, cathode ray tube, mercury-containing device, or mercury-containing lamp”

H. **40 CFR 273.18 - Off-site shipments.** The provisions are incorporated by reference with the following change:

1. in paragraph (g) replace "appropriate regional EPA office" and "EPA regional office" with "Department".

I. **40 CFR 273.31 – Prohibitions.** The provisions are incorporated by reference with the following changes:

1. add “(c) Prohibited from 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 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 .”
- J. **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 cathode ray tubes)”
  2. In 273.32(b)((4) and 273.32(b)(5), after “thermostats” delete “ and lamps” and add “, and cathode ray tubes, mercury-containing devices, mercury-containing lamps”
  3. In 273.32(b)(5), after “5000 kg of universal waste” add “(or 20,000 kg of cathode ray tubes)”
- K. **CFR 273.33 – Waste Management.** The provisions are incorporated by reference with the following changes:
1. add “(d) *Universal waste cathode ray tubes.* A large quantity handler of universal waste must manage universal waste cathode ray tubes in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
    - (1). A large quantity handler of universal waste must contain any universal waste cathode ray tube that shows evidence of breakage, leakage, spillage, or damage that could cause the release of glass particles under reasonable foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the cathode ray tubes, and must lack evidence of breakage, leakage, spillage, or damage that could cause the release of glass particles under reasonably foreseeable conditions.
    - (2). A large quantity handler of universal waste must contain unbroken cathode ray tubes in packaging that will minimize breakage during normal handling conditions.
    - (3). A large quantity handler of universal waste must contain cathode ray tubes in packaging that will minimize releases of tube fragments and residues.
    - (4). A large quantity handler of universal waste may conduct the following activities:

- (i) Sort display devices/cathode ray tubes by type.
  - (ii) Manage different types of display devices/cathode ray tubes in the same container.
  - (iii) Test display devices/cathode ray tubes to determine if they are capable of being returned to service.
  - (iv) Remove cathode ray tubes from display device casings.”
2. add “(e) *Universal waste mercury-containing devices*. A large quantity handler of universal waste must manage universal waste mercury-containing devices in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- (1). A large quantity handler of universal waste must contain any universal waste mercury-containing device that shows evidence of leakage, spillage, or damage that could cause leakage under reasonable foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the mercury-containing devices, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
  - (2). A large quantity handler of universal waste may:
    - (i) Mix different types of universal waste mercury-containing devices, or universal waste mercury-containing devices and universal waste thermostats in one container; or
    - (ii) Remove mercury-containing ampules from universal waste mercury-containing devices provided that the handler complies with 40 CFR 273.33(c)(2)(i)-(viii) and (c)(3)(i)-(iii).”
3. add “(f) *Universal waste mercury-containing lamps*. A large quantity handler of universal waste must manage universal waste mercury-containing lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- (1). A large quantity handler of universal waste must contain any universal waste mercury-containing lamps that show evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the mercury-containing lamps, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(2). A large quantity handler of universal waste must contain unbroken mercury-containing lamps in packaging that will minimize breakage during normal handling conditions.

(3). A large quantity handler of universal waste must contain mercury-containing lamps in packaging that will minimize releases of lamp fragments and residues.”

L. **40 CFR 273.34 – Labeling/markings.** The provisions are incorporated by reference with the following changes:

1. add “(e) Universal Waste cathode ray tubes (i.e. each cathode ray tube), or a container in which the cathode ray tubes are contained, must be labeled or clearly marked with any one of the following phrases: “Universal Waste – Cathode Ray Tube(s),” or “Waste Cathode Ray Tube(s),” or “Used Cathode Ray Tube(s).”

2. add “(f) Universal waste mercury-containing devices (i.e., each mercury-containing device), or a container in which the mercury-containing devices are contained, must be labeled or clearly marked with any one of the following phrases: “Universal Waste – Mercury-Containing Device(s),” or “Waste Mercury-Containing Device(s),” or “Used Mercury-Containing Device(s).”

3. add “(g) Universal waste mercury-containing lamps (i.e. each mercury-containing lamp), or a container in which the mercury-containing lamps are contained, must be labeled or clearly marked with any one of the following phrases: “Universal Waste – Mercury-Containing Lamps(s),” or “Waste Mercury-Containing Lamp(s),” or “Used Mercury-Containing Lamp(s).”

M. **40 CFR 273.35 – Accumulation time limits.** The provisions are incorporated by reference with the following changes to 273.35(c)(2):

1. after “battery” delete “or”, add “;”, after “thermostat” add “, cathode ray tube, mercury-containing device, or mercury-containing lamp”

N. **40 CFR 273.38 - Off-site shipments.** The provisions are incorporated by reference with the following change:

1. In paragraph (g) replace "appropriate regional EPA office" and "EPA regional office" with "Department".

O. **40 CFR 273.39 – Tracking universal waste shipments.** The provisions are incorporated by reference with the following changes:

1. In 273.39(a)(2) and in 273.39(b)(2), after “thermostats” add “, or other mercury-containing equipment, lamps, cathode ray tubes.”
- P. **40 CFR 273.51 – Prohibitions.** The provisions are incorporated by reference with the following changes:
1. add “(c) Prohibited from 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.”
- Q. **40 CFR 273.60 – Applicability.** The provisions are incorporated by reference with the following change:
1. In paragraph (a) after the phrase “of this chapter,” add “to all applicable requirements of Rules 7.00, 8.00, and 9.00 and the sub-sections of those rules,”
- R. **40 CFR 273.61 - Off-site shipments.** The provisions are incorporated by reference with the following change:
1. in paragraph (c) replace "appropriate regional EPA office" and "EPA regional office" with "Department".
- S. **40 CFR 273.62 - Tracking universal waste shipments.** The provisions are incorporated by reference with the following change to 273.62(a)(2):
1. after “thermostats” add “cathode ray tubes, mercury-containing devices, mercury-containing lamps”
- T. **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:
1. In 273.80(b) and 273.80(c), delete “Administrator” and replace with “Director”.

## **14.00 MIXED WASTE**

These rules apply to Mixed Waste as defined in Rule 3.00.

**14.01 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”.

**14.02 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.

## **15.00 USED OIL MANAGEMENT STANDARDS.**

### **15.01 Purpose and Applicability**

This Rule provides an alternative to managing used oil as hazardous waste under Rules 5.00-12.00; 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 3.00, that is to be reused, reclaimed, processed, re-refined or burned for energy recovery is subject to the requirements of Rule 15.00. This Rule does not apply to used oil, or material derived from used oil, that is disposed, sent for disposal or used in a manner constituting disposal, which must be evaluated to determine if the used oil is subject to regulation as a hazardous waste in accordance with Rule 5.08 (Determination). Used oil that does not meet the definition of a hazardous waste and is not managed in accordance with Rule 15.00 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 3.00 or in 40 CFR 261 Subpart C is subject to Rule 15.00 except that the used oil may be excluded from burning for energy recovery pursuant to Rule 15.03.
- 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 5.08 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 15.01(B)(1) does not apply to metal working oils/fluids that contain chlorinated paraffins are not subject to that are reclaimed/processed under a tolling arrangement as defined in Rule 15.04. Metal working oils/fluids that are recycled in any other manner are subject to the rebuttable presumption set forth in Rule 15.01(B)(1).
  3. Used oil contaminated with Chlorofluorocarbons (CFCs) removed from refrigeration units that is destined for reclamation is not subject to the rebuttable presumption set forth in 15.01(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 flammability contained in Rule 3.00 are subject to this Rule and may be managed accordingly if:
1. The resultant mixture does not exhibit any characteristics of hazardous waste identified in 40 CFR 261 Subpart C, and
  2. The resultant mixture does not exhibit the characteristic of flammability as defined in Rule 3.00.

Mixtures of used oil and flammable hazardous waste that do not meet the criteria listed in Rule 15.01(C)(1) and (2) are not subject to this Rule and shall be managed in accordance with Rule 5.08. Mixtures of used oil and waste that is hazardous because it exhibits a characteristic, other than flammability, shall be managed in accordance with the requirements of Rule 5.08.

- 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 5.08 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 15.03 are regulated under this Rule. Mixtures of used oil and any petroleum based products shall be managed in accordance with Rule 15.00.
- 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 15.00 or Rules 1.00 through and including 12.00 and 17.00 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 are terne-plated are not subject to Rule 15.00 or Rules 1.00 through and including 12.00 and 17.00 if the generator processes the filters in accordance with Rule 15.01(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 15.00. 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 15.00.

- 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 15.03. Materials derived from used oil that are used in a manner constituting disposal are subject to the requirements of Rule 5.08.
- 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 15.00.
- H. Used oil produced on vessels from shipboard operations is not subject to Rule 15.00 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 15.00. Used oil containing PCBs at levels of 50 ppm or greater are hazardous wastes as defined in Rule 3.00 and shall be managed

in accordance with Rules 1.00-12.00 and 17.00.

- J. Household used oil generators are exempt from the provisions of Rule 15.00. 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 onsite may also be subject to regulation by the USEPA under 40 CFR 112 (SPCC Program).

## **15.02 Prohibitions**

The following uses or activities are prohibited:

- A. The mixing of hazardous wastes with used oil, except as provided for in Rule 15.01(C);
- B. The use of any used oil for road oiling or dust suppression;
- C. Burning off-specification used oil as defined in Rule 15.03, unless the used oil is generated onsite 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 15.00; unless the used oil is being managed as a hazardous waste in accordance with the requirements of Rules 5.00 and 6.00.

### **15.03 Burning Used Oil for Energy Recovery**

This Rule applies to owners and operators of used oil burning equipment as defined in Rule 3.00. 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 section. 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 15.03.

- 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 onsite 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 onsite 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 with virgin oil or specification used oil for the purposes of burning used oil onsite 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 15.00 of the Hazardous Waste Management Regulations. Used oil burners subject to the requirements of Rule 15.03(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 15.03;
  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 with virgin oil or specification used oil for the purposes of burning used oil onsite 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;
  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 15.00 of the Hazardous Waste Management Regulations. Used oil burners subject to the requirements of Rule 15.03(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 with virgin oil or specification used oil for the purposes of burning used oil onsite 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;
  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 15.03(B) 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 1 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 I 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 .

<b><u>Table 1</u></b>		
<b><u>A</u></b>	<b><u>B</u></b>	<b><u>C</u></b>
<b>Constituent/property</b>	<b>Allowable levels (using Column C test methods)</b>	<b>Test Methods</b>
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 section 15.03(E)(3))
Flash Point	100 Degrees F minimum	EPA Methods 1010 or 1020A
Total Halogens	1,000 ppm maximum (see section 15.03(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 15.01(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 1 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".
  3. American Society for Testing and Materials.
- 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 onsite 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 aboveground 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 onsite 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.

#### **15.04 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 section. 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 onsite 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 5.02 and maintains the plan onsite 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.
- 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 and managed in accordance with the Department's *Oil Pollution Control Regulations*;

2. The total amount of used oil stored in the ASTs shall not exceed two thousand (2,000) gallons at any time;
  3. Aboveground storage tanks holding used oil shall be permanently marked with the words "Used Oil"; and
  4. 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 onsite 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 section (E) (1) through (5) below; used oil generators that process or re-refine used oil are subject to the requirements of Rule

15.08. 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 15.01(D); and
  5. Filtering, separating or otherwise reconditioning used oil before burning it on-site in a space heater in accordance with Rule 15.04 (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 15.03.
- G. Off-site shipments. Except as provided in sections (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 15.07 and Rule 6.00.
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 15.07, 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 3.00.
  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 offsite for processing or burning for a period of at least three years which 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 who 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 15.00.
- I. The rebuttable presumption contained in Rule 15.01(B) applies to used oil generated and managed by used oil generators.

#### **15.05 Used Oil Aggregation Points**

- A. Applicability. This section applies to owners or operators of all used oil aggregation points as defined in Rule 3.00.
- 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 15.04.
- 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 15.04 (G)(1).

#### **15.06 Used Oil Collection Centers**

- A. Applicability. This section applies to owners or operators of used oil collection centers as defined in Rule 3.00.
- 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 15.04.
- 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 15.08.

#### **15.07 Used Oil Transporter and Temporary Storage Facility Standards**

- A. Applicability. This Rule shall apply to used oil transporters as defined in Rule 3.00. 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 15.04(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 15.07(H) and may not process or re-refine used oil unless they comply with Rule 15.08;
  2. Transportation units used to transport hazardous waste shall be properly decontaminated in accordance with Rule 6.09 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 15.09.
- 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 6.01, 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 15.01(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 15.01(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 which 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 which 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 offsite 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 onsite 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 15.08.
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 15.07(G)(6) 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 15.07 (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 which 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 15.04(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.
  - (a) 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 offsite 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 15.01(F).

## **15.08 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 3.00.
  1. The requirements of Rule 15.08 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 15.04(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 15.04;
    - (b) Processors/re-refiners who transport used oil shall also comply with the requirements of Rule 15.07;
    - (c) Processors/re-refiners who burn used oil for energy recovery shall also comply with the requirements of Rule 15.03;
    - (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 15.09.

- 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 15.08 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 onsite and the processing and or recycling activities that will be conducted onsite;
  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 onsite 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 follow the procedures set forth in Rule 7.09 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 7.09.
- 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 8.01 through and including Rule 8.04, except for the information required by sections F, G and J of Rule 8.01.
- 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 15.08 (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 which 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 must 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 section 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 15.08 (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 onsite 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 onsite 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 areal 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 affects 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) 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 must 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 which 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 15.01(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 15.08(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 15.03 and include the information regarding the total halogen content required in Rule 15.08 (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 3.00 that store used oil onsite 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 3.00.
  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 8.04 T 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 which 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 which 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 sections 15.08(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 15.01(F).

**15.09 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 3.00.
- 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 who 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 I in Rule 15.03.
- 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 15.03, if their activity involves the burning of used oil;
  2. Rule 15.04; if their activity involves the generation of used oil;
  3. Rule 15.05; if their activity involves the aggregation of used oil;
  4. Rule 15.06; if their activity involves the collection of used oil;
  5. Rule 15.07; if their activity involves the transportation of used oil;
  6. Rule 15.08; 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 15.05 and 15.06.
- 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 which 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 who 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 which 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)

## **16.00 CORRECTIVE ACTION**

### **16.01 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, which 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 16.01 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.

**16.02 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 and 8 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 “Rules 7 and 8”.
- B. In 270.85(a), replace “§ 270.1” with “Rule 7.00 and 7.01”
- C. In 270.85(a)(1), replace §§ 270.3 through 270.66” with “Rules 7 and 8”.
- D. Add to 270.80(b) the following at the end of the paragraph:
  - 1. “The requirements of 7.01A, 7.02 – 7.09, 7.12-7.13, and 8.01-9.09 do not apply to RAPs unless further specified in this section of the Rules and Regulations.”
- E. In 270.140 and 270.150, replace “issuing Regional Office” with “Department”.
- F. In 270.155, replace the “EPA’s Environmental Appeals Board”, “the Environmental Appeals Board”, and “the Board” with “the Department’s Administrative Adjudication Division” and replace “under § 124.19 of this chapter” with “ as per R.I.G.L. 23-19.1-10(b)(5)”.
- G. In 270.155, add “(c) All appeals must be in writing and must 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.”
- H. In 270.190, replace “EPA’s Environmental Appeals Board” and “the Environmental Appeals Board” with “the Department’s Administrative Adjudication Division”.
- I. In 270.190 add “(c)(4) The letter from the appealing person must 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.”

- J. Delete 270.215(c) and (d).
- K. 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.)”

### **16.03 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, which are incorporated by reference.
- C. The owner or operator of a remediation waste management site may choose to treat remediation waste and then dispose it in a permitted hazardous waste landfill, provided the waste is at least treated and disposed according to the provisions and conditions of 40 CFR 264.555, which is incorporated by reference.

### **17.00 APPEALS AND PENALTIES**

**17.01 Enforcement Action Appeals:** All requests for an adjudicatory hearing must be in writing and must be filed with the clerk of the Administrative Adjudication Division within twenty (20) days of receipt of the contested enforcement action.

**17.02 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.

**17.03 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.

## **APPENDIX 1 - ACUTE ORAL LD<sub>50</sub> (RATS)**

Young albino rats derived from Sprague-Dawley stock are used as test animals. All animals are kept under observation for five days prior to experimental use, during which period they are checked for general health and suitability as test animals. The animals are housed in stock cages and are permitted a standard laboratory diet plus water ad libitum, except during the sixteen hour period immediately prior to oral intubation when food was withheld.

Initial screening is conducted in order to determine the general level of toxicity of the test material. Selected groups of albino rats are administered the test material at several dose levels. All doses are administered directly into the stomachs of the rats using a hypodermic syringe equipped with a ball-tipped intubating needle.

After oral administration of the test material, the rats are housed individually in suspended, wire mesh cages and observed for the following fourteen days. Initial and final body weights, mortalities, and reactions are recorded. A necropsy examination is conducted on all animals.

At the end of the observation period, the acute oral median lethal dose (LD<sub>50</sub> of the test material is calculated, if possible, using the techniques of Weil, Thompson, or Thompson and Weil (see below). The test material is then assigned a classification in accordance with Harold C. Hodge (see below).

Weil, Carrol S., "Tables for Convenient Calculation of Median - Effective Dose (LD<sub>50</sub> or ED<sub>50</sub>) and Instructions for Their Use", *Biometrics*, September 1952.

Thompson, William R., "Use of Moving Averages and Interpolation to Estimate Median - Effective Dose", *Bacteria Review*, November 1947.

Thompson, William R. and Carrol S. Weil, "On the Construction of Tables for Moving Average Interpolation", *Biometrics*, March 1952.

Hodge, Harold C., "The LD<sub>50</sub> and Its Value", *American Perfumer and Cosmetics*, 1965.

**Appendix II - OSHA Industrial Chemicals with Serious Cumulative Effects**  
(as of 2 April 1979)

2-Acetylene Tetrabromide*	Acrylamide
Allyl Chloride	Antimony compounds*
Anisidine	Benzyl chloride
Bromoform (Tribromo-methane)*	Butylamine
tert-Butyl chromate	n-Butyl glycidyl ether (BGE)
Calcium cyanamide	Carbon tetrabromide
Catechol <sup>R</sup> (Pyrocatechol)*	Chlordane <sup>R</sup>
Chlorinated camphene (skin)	Chlorinated diphenyl oxide
Chlorobenzene (monochlorobenzene)	Chlorobromomethane
Chlorodiphenyl	o-Chlorostyrene
Coal tar pitch	Crag <sup>R</sup> (1,3-Bis(2,2,2-trichloro-1-hydroxyethyl))
Cyclohexanol	Cyclohexanone
Cyclohexene	Cyclohexylamine (skin)
2-n-Dibutyl aminoethanol	p-Dichlorobenzene
1,2-Dichloroethylene	Dichloroethyl ether (skin)
Dichloromonofluoromethane (F21)	Dicyclopentadiene (Bicyclopentadiene)
Diethylamine	Difluorodibromomethane
Diglycidyl ether (DGE)	Dimethylamine
Dimethylformamide	o-Dinitroresol
3,5-o-Dinitrotoluamide (Zalene <sup>R</sup> ) (Dinitrobenzamide)	
Dinitrotoluene	Disulfiram*
Endosulfan (Thiodan <sup>R</sup> )*	Epichlorohydrin
Ethanolamine	2-Ethoxyethyl acetate
Ethyl bromide	Ethylenediamine
Ethylene glycol dinitrate	Ethylene oxide
Ethyl silicate	Ferbam <sup>R</sup>
Fluorine (gas)	Formamide
Hafnium	Heptachlor
Hexachlorocyclopentadiene	Hexachloroethane*
Hexachloronaphthalene	Hydrogenated terphenyls
Hydrogen fluoride	Hydrogen selenide
Hydroquinone	Indene (Indonaphthene)
Maleic anhydride	Manganese cyclopentadienyl tricarbonyl
Mercury and mercuric compounds*	Methoxychlor*
Methyl acrylate (acrylic acid, methyl ester)	Methylal
Methyl cellosolve and acetate	Methyl chloride
Methylcyclohexanol	Methylcyclopentadienyl manganese tricarbonyl
Methylene bisphenyl isocyanate	Methyl ethyl ketone peroxide

Methyl iodide	Methyl isocyanate
Methyl silicate	Molybdenum*
Monomethyl aniline	Morpholine
Naphthalene*	Nitrogen trifluoride*
2-Nitropropane	Nitrotoluene
Octachloronaphthalene	Oxygen difluoride (gas)
Pentachloronaphthalene	Perchloroethylene (Tetrachloroethylene)
Perchloryl fluoride	p-Phenylene diamine
Phenyl ether	Phenylhydrazine
Phenylphosphine	Phosphorous trichloride
Picric acid (dry)	Pival <sup>R</sup>
Platinum*	Propylene dichloride
Propylene oxide	n-Propyl nitrate
Pyridine	Quinone
Resorcinol <sup>R</sup>	Rotenone <sup>R*</sup>
Sulfuryl fluoride	Tellurium*
1,1,2,2-Tetrachloroethane	Tetrachloronaphthalene
Tetraethyl lead	Tetramethyl lead
Tetranitromethane*	Tetryl
Tin, organic compounds	1,1,2-Trichloroethane
Trichloronaphthalene	1,2,3-Trichloropropane
Uranium	Vinyl bromide
Vinyl cyclohexene dioxide	Vinylidene Chloride*
Xylidine	Warfarin <sup>R</sup>

\*in solution

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 \_\_\_\_\_, 2007, 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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W. Michael Sullivan, Director  
Department of Environmental Management

Notice given on: 12/7/2005 (used oil) and 12/20/2006 (fee waiver)

Public Hearing held on: 1/6/2006 and 1/19/2007

Filing Date: \_\_\_\_\_

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