

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



**RULES AND REGULATIONS FOR
HAZARDOUS WASTE MANAGEMENT**

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RULES AND REGULATIONS FOR HAZARDOUS WASTE MANAGEMENT

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RULES AND REGULATIONS FOR HAZARDOUS WASTE MANAGEMENT

1.0 FINDINGS AND POLICY

- 1.1 Purpose:** These *Rules and Regulations for Hazardous Waste Management* (also referred to hereafter as the *Regulations* or the *Hazardous Waste Regulations*) are intended to minimize environmental hazards associated with the generation, transportation, treatment, storage and disposal of hazardous wastes, including the hazardous waste component of mixed radioactive and hazardous waste (mixed waste), the transportation of Septage, and the operation of hazardous waste treatment, storage and disposal facilities. They are also designed to promote planning and implementation of hazardous waste treatment, storage and disposal facilities where necessary and desirable.
- 1.2 Authority:** Under the authority of the 1956 Rhode Island General Laws, Chapters 23-19.1 and 23-19.4 (2001 Reenactment) and particularly Sections 23-19.1-5, 23-19.1-6, 23-19.1-7, 23-19.1-10, and 23-19.4-1 through 23-19.4-3 of that Law, the following rules and regulations are promulgated to administer this chapter, as amended, for the generation, transportation, treatment, storage and disposal of hazardous waste, including the hazardous waste component of mixed waste and the transportation and disposal of Septage, and shall supersede all previous rules and regulations.
- 1.3 Administrative Findings:** The declaration of intent and public policy enumerated by the Legislature in Chapters 23-19.1 and 23-19.4 (2001 Reenactment), as amended, are hereby adopted as the administrative findings and policy upon which these rules and regulations are based.
- 1.4 Application:** The terms and provisions of these Rules and Regulations shall be liberally construed to permit the Department to effectuate the purposes of State law, goals, and policies.
- 1.5 Functions:** The primary functions of the Department are the regulation of hazardous wastes, including the hazardous waste component of mixed wastes, and the granting, denial, suspension or revocation of permits for the operation of hazardous waste management facilities and the granting, denial, suspension, revocation or approval of the plans and specifications for the installation of any equipment in such facilities. These functions also include the permitting of hazardous waste and Septage transporters.
- 1.6 Severability:** If any provision of these Rules and Regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

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

2.0 ORGANIZATION AND METHOD OF OPERATIONS

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

2.2 Adoption by Reference:

- A. Various federal regulations are incorporated by reference in these Rhode Island regulations. All references to particular numbered section(s) or portion(s) of such numbered section(s) of 40 CFR or 49 CFR means that such numbered section(s) or portion(s) of such section(s) of 40 CFR and 49 CFR is or are incorporated by reference, including any cross-references to additional applicable regulations, notes, appendices, and diagrams, except where additions, modifications, or exceptions are specifically stated. When a federal regulation has been incorporated by reference with State additions, modifications, or exceptions, the governing requirements include the State changes in addition to any unchanged portions of the incorporated federal regulation. Any cross references in other State regulations to a federal regulation that has been incorporated with State changes are to that regulation with the State changes. When federal regulations are incorporated by reference, State terms are substituted for federal terms to the extent provided in Rule 3 definitions of Administrator/Regional Administrator and EPA/United States Environmental Protection Agency/U.S. Environmental Protection Agency/Agency, in addition to the other State changes specified elsewhere in these *Rhode Island Hazardous Waste Regulations*. The revision dates of the federal regulations that are incorporated by reference are specified in Rule 3 definitions of 40 CFR and 49 CFR.
- B. 40 CFR parts 260 – 265, 266 (except for subpart H), 270, 273, and 124 are incorporated by reference in their entirety, except as otherwise noted in these Rules and Regulations. Rhode Island has not adopted the provisions of 40 CFR part 266, subpart H, relative to burning hazardous waste in boilers and industrial furnaces, nor has it adopted the provisions of 40 CFR part 268- Land Disposal Restrictions. Instead, those provisions are administered in Rhode Island by EPA. Rhode Island has not adopted the reduced requirements of 40 CFR part 267, relative to operating under standardized permits. Those reduced requirements do not apply in Rhode Island. Rhode Island has adopted its own regulations regarding used oil management in Rule 15 of these Rules and Regulations. These used oil regulations apply in lieu of the federal requirements in 40 CFR part 279,

except to the extent that Rule 15 references particular part 279 requirements. Any term used within these Rules and Regulations not specifically defined within Rule 3.0 shall be defined as in the Federal regulations. Federal statutes and regulations that are cited in 40 CFR 260 through 273 and 124, that are not adopted by reference shall be used as guidance in interpreting the Federal regulations in 40 CFR Parts 260 through 273 and 124.

- C. 40 CFR parts 260 and 261 are incorporated by reference in their entirety except as provided below and as otherwise noted in these regulations:
1. 40 CFR 260.1(a) -- delete "265" and replace with "266".
 2. 40 CFR 260.2(a) -- delete "265" and replace with "266".
 3. 40 CFR 260.3 -- delete "265" and replace with "266".
 4. In 260.10 delete the definition of performance track member facility, cathode ray tube, CRT collector, CRT glass manufacturer and CRT processing.
 5. In 260.10 delete the definition of "Existing hazardous waste management (HWM) facility or existing facility" and replace with: "Existing hazardous waste management (HWM) facility or existing facility means a hazardous waste management facility which is in operation on or before November 19, 1980."
 6. In 260.10 delete the definition of "New hazardous waste management (HWM) facility or new facility" and replace with: "New hazardous waste management (HWM) facility or new facility means a hazardous waste management facility which began operation after November 19, 1980."
 7. In 260.10 in "Designated Facility" definition replace "§262.20" with "§262.20, excluding 262.20(e)".
 8. In 261.2(a)(1), replace the words "that is not excluded by 261.4(a)" with the words "that is not excluded by 261.4(a), except that the scrap metal exclusion of 261.4(a)(13) and the 261.4(a)(14) exclusion do not apply to circuit boards that are components of those electronic devices as defined by the term "used electronic device" in Rule 3.0."
 9. Add to 261.4(a)(13), "This scrap metal exclusion does not apply to circuit boards that are components of those electronic devices as defined by the term "used electronic device" in Rule 3.0."
 10. For 261.4(a)(14) add "(iii) the circuit boards are not components of those electronic devices as defined by the term "used electronic device" in Rule 3.0."
 11. Add at the end of 261.4(b)(1): "The provisions of the household hazardous waste exemption apply, but are limited by Rules 5.0 and 13.5(E) of these Rules and Regulations."
 12. Delete 261.4(b)(7)(ii)(F), and 261.4(b)(10).
 13. In 40 CFR 261.4(e)(3)(iii), delete "in the Region where the sample is collected".
 14. Delete 261.5 except as provided in Rule 5.2(B), 5.2(C), 5.5, 5.6, and 13.5 (E).
 15. Add to 261.6(a)(3)(ii) the following sentence: "The scrap metal exclusion of 261.4(a)(13) does not apply to circuit boards *that are components of those electronic devices as defined by the term "used electronic device" in Rule 3.0* ; instead they are regulated as a universal waste in Rhode Island."

16. Delete the following rules related to cathode ray tubes: 261.4(a)(22), 261.39, 261.40 and 261.41. These cathode ray tube exemptions and provisions do not apply in Rhode Island; instead, cathode ray tubes are subject to the Rule 13 universal waste regulations.
 17. In 261.9, add the following:
 - “(e) Used electronics as described in Rule 13.2 of these regulations;
 - (f) Silver-containing photo fixing solutions as described in Rule 13.3 of these regulations.”
 18. In 261.24(a) delete the words “(except manufactured gas plant waste)” and replace with “except manufactured gas plant remediation waste that is managed under a Department approval issued in accordance with applicable RIDEM Rules and Regulations for the Investigation and Remediation of Hazardous Material Releases, and that is not land disposed”.
- D. 40 CFR Part 262 is incorporated by reference in its entirety except as provided below and in Rule 5 “Generators” and as otherwise noted in these regulations:
1. Delete 262.10(f)
 2. The small quantity generator provisions of 40 CFR 262.20(e), 40 CFR 262.34(d) – (f), 40 CFR 262.42(b), and 40 CFR 262.44 do not apply, except for provisions of Rule 5.2(B) and (C) or as provided in Rules 5.5 , 5.6, and 13.5(E).
 3. Since Rhode Island does not recognize the federal exemptions for small quantity generators and conditionally exempt small quantity generators, replace 40 CFR 262.27 with the following:

“Waste Minimum Certification

Any generator who initiates a shipment of hazardous waste, when signing the certification statement in Item 15 of the Uniform Hazardous Waste Manifest, must and will be certifying to the following:

“I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practical and I have selected the practicable method of treatment, storage, and disposal currently available to me which minimizes the present and future threat to human health and the environment.”
 4. In 40 CFR 262.42(a)(2), delete "for the Region in which the generator is located".
 5. Delete 262.70
- E. 40 CFR Part 263 is incorporated by reference in its entirety except as provided below and in Rule 6 “Transporters” and as otherwise noted in these regulations.
1. In 263.12, replace “ten days” with “seventy-two hours (excluding Sundays and federal and Rhode Island legal holidays)”.

2. Delete 263.20(h).
- F. 40 CFR Part 264 is incorporated by reference in its entirety except as provided in Rule 8 “Operational Requirements for Treatment, Storage and Disposal Facilities” and as otherwise noted in these regulations.
 - G. 40 CFR Part 265 is incorporated by reference in its entirety except as provided below and as otherwise noted in these regulations.
 1. Delete 40 CFR 265.1(c)(8) pertaining to the farmer exemption.
 2. In 265.143(g) and 265.145(g) Where the sentence "If the facilities covered by the mechanism are in more than one Region, identical evidence of financial assurance must be submitted to and maintained with the Regional Administrator of all such Regions." appears, replace it with the sentence "If the facilities covered by the mechanism are in more than one State, identical evidence of financial assurance 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."
 3. In 40 CFR 265.191(a) and 265.191(c), compliance in Rhode Island relative to the January 12, 1988 and July 14, 1986 dates, respectively, applies only to a tank system owned or operated by a federal small quantity generator or any tank system (aboveground, onground, inground, or underground) that cannot be entered for inspection. Relative to a tank system that is not owned or operated by a federal small quantity generator and which is a tank system (aboveground, onground, inground, or underground) that can be entered for inspection, "January 12, 1988" and "July 14, 1986" shall be replaced with "December 1, 1992", wherever those dates occur in 40 CFR 265.191(a), and 265.191(c), respectively.
 - H. 40 CFR Part 266 (except for subpart H) is incorporated by reference in its entirety except as otherwise noted in these regulations.
 - I. 40 CFR Part 270 is incorporated by reference in its entirety except as provided in Rule 7 “Issuance, Renewal and Conditions of Facility Permits” and as otherwise noted in these regulations.
 - J. 40 CFR Part 273 is incorporated by reference in its entirety except as provided in Rule 13 “Universal Waste” and as otherwise noted in these regulations.
 - K. 40 CFR Part 124 is incorporated by reference in its entirety except as provided in Rule 7 “Issuance, Renewal and Conditions of Facility Permits” and as otherwise noted in these regulations.

3.0 DEFINITIONS

Notes: Any term used within these regulations not specifically defined within this section shall be defined as in 40 CFR 260.10, as modified by Rule 2.2. 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 Subpart H and 263, Subpart B regarding exports of hazardous waste; 268.5, 268.6, and 268.42(b) plus 268.44(a-g) regarding land disposal restrictions.
- B. References to the Administrator or to the Regional Administrator, appearing therein, shall be interpreted as referring to the Director, except for such references in 40 CFR 260.10 other than its use in the definition of a boiler, in 40 CFR 260.20(b) and 260.22, in 40 CFR 261.4(f)(1), in 40 CFR 261.10 and 261.11, in 40 CFR 262, Subpart E and Subpart H, in 40 CFR 264.12(a), in 40 CFR 265.12(a), in 40 CFR 268.5, in 40 CFR 268.13, in 40 CFR 268.40, in 40 CFR 268.42(b), in 40 CFR 270.2, in 40 CFR 270.5, in 40 CFR 270.10(e)(2) and (e)(3), in 40 CFR 270.10(f)(2), in 40 CFR 270.10(g)(1)(i) and (iii), in 40 CFR 270.10(f)(3), in 40 CFR 270.11(a)(3), in 40 CFR 270.14(b)(20), in 40 CFR 270.32(b)(2), in 40 CFR 271.5, in 270.110(h), and in any

other section of 40 CFR not adopted by reference or not delegable to the State of Rhode Island.

- C. In A and B above, where "Administrator" or "Regional Administrator" do not mean the Director of the Department of Environmental Management, or his/her designee, "Administrator" shall mean the Administrator of the Environmental Protection Agency, or his/her designee, and "Regional Administrator" shall mean the Regional Administrator for the EPA region 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.

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

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

Closed portion shall mean that portion of a facility 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.

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

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

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

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

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

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

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

“EPA” (or **“United States Environmental Protection Agency”** or **“U.S. Environmental Protection Agency”** or **“Agency”**) as used in the portions of the Code of Federal Regulations

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 B, Subpart E, & Subpart H and 263, Subpart B regarding exports of hazardous waste; 262.60(c) and (e) and 264.71(d) regarding imports of hazardous waste; and 268.5, 268.6, and 268.42(b) plus 268.44 (a-g) regarding land disposal restrictions.
- D. Use of EPA with respect to manifest registry functions under 262.21 and with respect to export requirement in 263.20(a) and (g).
- E. Usage in the term "EPA region" in 40 CFR 260.
- F. References to “EPA Director of the Office of Solid Waste” in 40 CFR 262.21.
- G. References to EPA’s “International Compliance Assurance Division” in 40 CFR 264.71(a)(3) and 265.71(a)(3).

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

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 3.0 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 5.2 (B) and (C) or as provided in Rules 5.5, 5.6, and 13.5(E). 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 5.0 of these regulations and except as provided in Rule 13.5(E).

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

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

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 5.0 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.

Household used oil shall mean used oil derived from households.

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

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

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

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

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

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

Local land authority shall mean a city or town council.

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

Low-level radioactive waste shall mean a radioactive waste 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 Uniform Hazardous Waste Manifest (EPA Form 8700-22, including Form 8700-22A, as shown in Appendix III) as defined by 40 CFR 260.10. The manifest is originated and signed by the generator or offeror on behalf of the generator in accordance with the instructions in the appendix to 40 CFR part 262 and the applicable requirements of 40 CFR parts 262 through 265.

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

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

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

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

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.

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 for 40 CFR 260.10 definition of "Act or RCRA", 40 CFR Part 262 Appendix, 40 CFR 270.2 definition of "RCRA" and 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 code R006 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 LD₅₀ 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 LD₅₀ (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 LD₅₀ 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 LD₅₀ (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 LD₅₀ 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 LD₅₀ (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 give 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 LD₅₀ 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

M. **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 cm²) 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.

N. **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 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 materials 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 15.0 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 5.4C. 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 5.4A.

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

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

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 used electronics, calculated collectively at any time and who does not accumulate 5,000 kilograms (11,000 pounds) or more total of all other universal waste (batteries, pesticides, mercury-containing equipment, lamps, or silver-containing photo fixing solutions), calculated collectively at any time.

Sole source aquifer shall mean those aquifers designated pursuant to Section 1424 (e) of the Safe Drinking Water Act of 1974 (Public Law 93-523) 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 2 of Rule 15.3(E).

"State(s)" (or "authorized state" or "approved state" or "approved program") as used in the portions of the Code of Federal Regulations 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 that is constructed primarily of non-earthen materials that provide structural support.

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

Toxicity Characteristic Leaching Procedure shall mean the procedure referenced in 40 CFR 261.24(a).

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

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

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

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

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

Underground drinking water source shall mean an aquifer supplying drinking water for human consumption; or an aquifer 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 and that are subject to Rule 13:

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

Universal Waste Handler:

- A. shall mean:
 - 1. A Generator (as defined in Rule 3.0) 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 Electronics or a “Used Electronic Device” shall mean a device or component thereof that contains one or more circuit boards or a cathode ray tube and is used primarily for communication, data transfer or storage, or entertainment purposes, including but not limited to, desk top and lap top computers, computer peripherals, computer monitors, copying machines, scanners, printers, radios, televisions, camcorders, digital cameras, digital picture frames, video cassette recorders (“VCRs”), compact disc (“CD”) players, digital video disc (“DVD”) players, MP3 players, video game consoles, portable Global Positioning System (“GPS”) navigation units, telephones, including cellular and portable phones, and stereos. “Used Electronics” or a “Used Electronic Device” shall not mean a computer, television or video display device that is: (a) a part of a motor vehicle or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle; or (b) functionally or physically a part of, connected to or integrated within a larger piece of equipment designed and intended for use in an industrial, governmental, commercial, research and development, or medical setting, (including diagnostic, monitoring, or other medical products as that term is defined under the Federal Food, Drug, and Cosmetic Act) or equipment used for security, sensing, monitoring, or anti-terrorism purposes; or (c) contained within a home appliance, clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, or air purifier; or (d) a handheld device used to access commercial mobile radio service, as such service is defined in 47 CFR 20.3.

Used Oil means oil that has been refined from crude oil (in whole or in part), or any synthetic oil 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 5.8 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 any space heater, industrial furnace or boiler that is used to burn used oil for the purpose of energy recovery.

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

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

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

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

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

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

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

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

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

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

Waste LD_{50} (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:

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

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_{50} = Oral rat LD_{50} 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 as amended by these regulations. All references to Title 40 of the Code of Federal Regulations are 40 CFR as of July 1, 2008.

49 CFR ... shall mean that section or subsection of the Code of Federal Regulations, Title 49, Transportation as amended by these regulations. All references to Title 49 of the Code of Federal Regulations are 49 CFR as of October 1, 2008.

4.0 VARIANCES

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

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

- 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.

4.3 Permit Variances: In addition to the requirements of Rule 4.2, 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.

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

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

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

5.0 GENERATORS

These rules shall apply to all generators of hazardous waste except as provided in 262.10(i) relative to explosives and munitions emergencies. 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), 262.34(d) –(f), 262.42(b) and 262.44 do not apply in Rhode Island, except for provisions of Rule 5.2(B) and (C) or as provided in Rules 5.5, 5.6, and 13.5(E). Rhode Island does not recognize 40 CFR 262.70 and 262.10(f) (the farmer exemption for disposal of waste pesticides). The non-business wastes of single and multiple family residence occupants are subject to the household hazardous waste exemption, utilizing the Rule 3.0 definition of household hazardous waste, except as provided below in this paragraph with respect to facilities that accept household hazardous waste, and except as provided in Rule 13.5(E) regarding certain dry cell batteries, used electronics, and mercury-containing equipment. 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.

- 5.1 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.

5.2 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 3.0, 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) –(f), (g) – (i) (instead follow Rule 5.2D), and (j) – (l), and except for the words “or (d), (e), and (f) of this section, depending on the amount of hazardous waste on-site in that calendar month”, in 262.34(m). 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 of 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 5.4 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).

5.3 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 262.20 and the related appendix to 40 CFR 262 (instructions for the uniform hazardous waste Manifest) and the requirements of these rules and regulations. The generator will also note in item 13 of the Manifest if the waste is an R006 waste under paragraph (L) of the "Rhode Island Wastes" definition in Rule 3.0 of these regulations. The generator must also indicate if the waste is exempt from the generator fee by listing waste codes R011 through R016 if appropriate.
- C. The generator must complete the generator section of a Manifest prior to the shipment of the waste..
- D. 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.

- E. 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.
- F. 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.
- G. 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).
- H. 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)]
- I. A generator must designate on the Manifest one designated facility, which is permitted to handle the waste described on the Manifest.
- J. 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.

5.4 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 3.0, 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.

- 5.5 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 March 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.
- 5.6 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 Copy 3 and 6 of each Uniform Hazardous Waste Manifest, 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.
- 5.7 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.
- 5.8 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 3.0 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.
- 5.9 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 waste generated. This fee shall apply to all wastes that are generated in Rhode Island and shipped on a 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.

6.0 TRANSPORTERS

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

- A. On-site transportation of hazardous waste, per 40 CFR 263.10(b), and on-site transportation of used oil or Septage
- B. Transportation during an explosives or munitions emergency response per 263.10(e).

6.1 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 3.0, and being managed as a universal waste.
 - 8. The transportation of waste military munitions (as defined in 40 CFR 266.201 and 266.202) that satisfy the conditions of 40 CFR 266.203.
 - 9. The transportation of 55 gallons or less of for PCB contaminated waste that does not otherwise meet the definition of hazardous waste, generated at a field service location by a public utility to a generator-owned location that has an existing US EPA Identification Number for the generation of hazardous waste.

- B. For transporter permits, an application fee of \$100.00 per transportation unit shall be paid by the hazardous waste, used oil or Septage transporter. An application fee of \$50 per transportation unit shall be paid by a transporter of Septage that is generated in marine vessels. For transporter temporary permits, an application fee of \$25 per transportation unit shall be paid by the hazardous waste, used oil or Septage transporter.
- C. The hazardous waste, used oil or Septage transporter's permit will be issued for a period not to exceed one year.
- D. The hazardous waste, used oil or Septage transporter's temporary permit will be issued for a period not to exceed thirty-one days.
- E. The permit or temporary permit will be granted or renewed only for those hazardous waste, used oil or Septage transportation units 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 6.7, at all times. The Department reserves all rights to conduct inspections by Department personnel to verify and ensure compliance with regulatory requirements.
- F. A permitted hazardous waste transporter may also transport shipments of used oil in accordance with the requirements of Regulation 15.0.

6.2 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 6.1) 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.

6.3 General Requirements

- A. It shall be the responsibility of the hazardous waste transporter to obtain all other required licenses and permits from other state and federal agencies prior to transporting any hazardous waste.
- B. The transporter is prohibited from transporting extremely hazardous waste (waste bearing the code R006 under item 13 of the Manifest), on the following roads:

TABLE 1: LIST OF PROHIBITED TRAVEL ROADS FOR EXTREMELY HAZARDOUS WASTE

Town(s)	Road	From	To
Scituate, Johnston and Foster	Route 6	Route 94 Foster	Hopkins Ave. Johnston
Scituate and Smithfield	Route 116	Scituate Ave. Scituate	Snake Hill Road Smithfield
Scituate and Cranston	Route 12	Route 14 Scituate	Route 116 Scituate
Scituate	Route 14	Route 102	Route 116
Scituate and Foster	Route 102	Route 94 Foster	Snake Hill Road Glocester
Scituate and Foster	Central Pike	Route 94 Foster	Route 102 Scituate
Scituate	Danielson Pike	Route 6	Route 6
Scituate	Rocky Hill and Peeptoad 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 6.3 (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 6.8, 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 5.4 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.

6.4 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 5.4.
 - 3. The total quantity of waste, as can be best estimated, matches the quantity indicated in the generator section of the Manifest.
 - 4. That all containers appear sound, free of leaks and for containers of liquid, that they are liquid tight.
- C. The hazardous waste transporter shall complete the transporter's section of the Manifest, sign the Manifest, and leave the manifest copy referenced in Rule 5.3 with the generator.
- D. The hazardous waste transporter shall keep the completed Manifest, minus the copy referred to in Rule 5.3, with the hazardous waste until received by the consignee.
- E. The hazardous waste transporter will, upon receipt of the hazardous waste by the consignee, remove the transporter copy for his records and turn over the remaining copies to the consignee.
- F. Copy 5 of the Manifest shall be kept by the hazardous waste transporter for a period of three years from the date of the receipt of that waste.

- G. The hazardous waste transporter shall submit to the Director the names and signatures of all company personnel who are allowed to sign Manifests.
- H. The hazardous waste transporter 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.

6.5 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.

6.6 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.

6.7 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.

6.8 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.

- 6.9 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 Temporary Storage of Waste by Transporters and Temporary Transfer and Storage Facilities

Paragraphs A-B apply to transporters that temporarily store wastes in their vehicles and Paragraphs C – W apply to temporary transfer and storage facilities.

- A. A permitted transporter of hazardous waste may store such waste in their vehicle at their business location, without the business having a Hazardous Waste Temporary Transfer and Storage Facility Letter of Authorization, for up to and not exceeding seventy-two (72) hours, excluding Sundays and federal and Rhode Island legal holidays, provided the following conditions are met:
 - 1. No waste is loaded onto or unloaded from the vehicle, even for the purpose of consolidation of loads.
 - 2. the site and vehicle are secured to prevent unauthorized access.
- B. Temporary storage of hazardous waste or used oil in the transporting vehicle at the location of a breakdown of the vehicle will only be allowed if the transporter notifies the Department of the location of the vehicle and the estimated time for repairs.
- C. Applicability. This Rule applies to facilities that temporarily transfer and store hazardous waste at locations for up to and not exceeding seventy-two (72) hours, excluding Sundays and federal and Rhode Island legal holidays, at locations included on the application. This Rule does not apply to waste that is received from offsite by a utility that is exempt under Rule 6.1(A)(9).
- D. Authorization Requirements. All persons who shall construct, operate or own a temporary transfer and storage facility shall first submit a complete application to the Office of Waste Management and obtain a Letter of Authorization from the Director prior to conducting any such activities on-site.
- E. Closure Plan and Financial Requirements. Owners or operators of a temporary transfer and storage facility shall develop a closure plan, complete with a cost estimate for closing down their facility, and submit this plan along with an Application for Authorization as defined below, Owners or operators shall document their financial ability to complete the closure plan by providing financial assurance equivalent to the cost estimate contained within the closure plan. If the owner or operator fails to satisfy these requirements the Director may deny their Application for Authorization.
- F. Application Specifications. All applications for authorization shall contain at least the following information:
 - 1. The location of the facility, including the assessor's plat and lot numbers and address;
 - 2. The name and address of the property owner and operator of the facility;
 - 3. A detailed and complete description of the operations at the facility;

4. A site plan depicting the facility's floor plan, yard layout, drainage system and storage and transfer location(s);
 5. A complete list of all pollution control and safety equipment to be utilized or maintained on-site;
 6. Demonstration that the proposed facility is not within an area where the groundwater is classified as GAA, a well head protection area, or within areas where the groundwater is classified GA and where public water is not available to all surrounding properties;
 7. A copy of the applicant's environmental liability insurance policy for the facility; and
 8. The facility's closure cost estimate and financial assurance mechanism.
- G. Application fee. An application fee of two thousand dollars (\$2,000.00) shall be submitted with each new application for a Letter of Authorization to operate a temporary transfer and storage facility. Yearly renewal application fees shall be five hundred dollars (\$500).
- H. Authorization Period. Each Letter of Authorization shall be valid for a period of not more than one (1) year from the date of issuance.
- I. Expiration of Authorization/ renewal of authorization. At least thirty (30) days before the end of the authorization period specified above, the owner/operator may submit a renewal application and fee in accordance with the requirements of this rule to operate a temporary transfer and storage facility.
- J. Posting. Any Letter of Authorization issued hereunder shall be maintained on the facility and posted in a conspicuous location, and shall be the property of the Department.
- K. Change of Ownership or Location. Changes in ownership, administration or location of temporary transfer and storage facility are subject to the following requirements:
1. The Director shall be notified in writing thirty days prior to any change in ownership of the facility or legal entity operating the facility or location or discontinuance of services;
 2. A Letter of Authorization is not transferable to any other property.
 3. Any change in ownership shall require written authorization of the Department prior to the change. The Director may require resubmission of all or part of the application in connection with the transfer.
- L. Revocation. The Director may revoke or suspend a Letter of Authorization in the event that a determination is made by the Director that the facility is not being operated in a manner that is consistent with these Regulations or the Letter of Authorization.

- M. Generator Requirements. Temporary transfer and storage facilities shall comply with applicable sections of hazardous waste generator requirements contained in Rule 5.
- N. Storage Units. Owners or operators of the temporary transfer and storage facility may store hazardous waste only in containers.
- O. Condition of Storage Units. Containers used to store hazardous waste at the transfer and storage facility shall be:
1. In good condition and free of severe rusting, corrosion or structural defects. In the event that a container deteriorates and begin to leak the owner shall transfer the hazardous waste to a container that is in good condition;
 2. Liquid tight with no visible leaks and;
 3. Kept closed at all times.
- P. Secondary Containment for Containers. Containers used to store hazardous waste shall be equipped with secondary containment that at a minimum has the following:
1. An impervious floor or bottom covering the entire storage area; and
 2. Dikes, berms or walls capable of containing a spill or release; and
 3. A capacity equivalent to a minimum of 100% of the volume of the volume of the hazardous waste stored in the container at the facility; and
 4. The entire system shall be impervious to prevent a release; or
 5. An equivalent containment system may be substituted if prior written approval is obtained from the Director.
- Q. Interior Storage. Containers at temporary hazardous waste transfer and storage facility must be contained within a building.
- R. Labeling. Containers used to store hazardous waste at the temporary transfer and storage facility shall be in compliance with Rule 5.4.
- S. Local Authority. Owners and operators of temporary hazardous waste transfer and storage facilities shall be in compliance with the local building code and fire safety requirements.
- T. Operation. No waste shall be bulked during the storage time.
- U. Response to release. Upon detection of a release of hazardous waste, the owner or operator of the facility shall perform the following:
1. Immediately notify the Department's Emergency Response Program (at 222-1360 or after hours at 222-3070), the local authorities and the National Response Center.

2. Within 15 days of the incident, the owner or operator of the facility must submit a written report to OWM. The report should include:
 - (a) Name and address of facility;
 - (b) Time and type of incident;
 - (c) Name and quantity of material(s) involved;
 - (d) The extent of injuries;
 - (e) Any actions were taken during the incident and;
 - (f) The possible hazards to human health or the environmental outside the facility.
- V. Tracking. Owners or operators of the facilities shall keep a written log of each hazardous waste shipment received for temporary storage at the facility and of each offsite shipment of the hazardous from the facility for a period of at least three years. The owner or operator shall also reconcile the incoming and outgoing shipments of hazardous waste on the written log in order to demonstrate that the hazardous waste is not being stored for greater than the allowed seventy two (72) hours time period. The written logs shall be provided to the Department upon request.
- W. Owners or operators of the facilities shall maintain a valid hazardous waste transporter permit. The site and vehicle must be secured to prevent unauthorized access.

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 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.

7.0 ISSUANCE, RENEWAL AND CONDITIONS OF FACILITY PERMITS

- A. **Applicability:** This rule shall apply to treatment, storage and disposal facilities. This rule does not apply to facilities that operate in accordance with the previous rule (Rule 6) as temporary transfer and storage facilities.
- B. **Incorporation of 40 CFR Part 270 Federal Regulations regarding Treatment, Storage and Disposal Facilities**

40 CFR Part 270 is incorporated by reference in its entirety except as provided below and except as provided in Rule 16 “Corrective Action” and except as otherwise noted in these Rhode Island Hazardous Waste Regulations:

1. In 270.1(b) introduction, revise the third sentence to read “ Treatment, storage, and disposal facilities (TSDs) are subject to permitting under RCRA.”
2. In the first sentence of 270.1(c), delete “in 40 CFR part 261” and substitute “in these *Rhode Island Hazardous Waste Regulations*”. In the second sentence of 270.1(c), delete “in § 270.2” and substitute “in these *Rhode Island Hazardous Waste Regulations*.” Also, add after the second sentence “No person shall construct, substantially alter, or operate any hazardous waste management facility, nor shall any person store, treat or dispose of any hazardous waste, except as exempted by these *Rhode Island Hazardous Waste Regulations*, without first obtaining a permit from the Director for the facility or activity.”
3. In 270.1(c) replace the sentence “Owners and operators of hazardous waste management units must have permits during the active life (including the closure period) of the unit.” with “ Owners and operators of hazardous waste management units and all persons who shall construct, substantially alter, or operate hazardous waste treatment, storage or disposal facilities or who shall treat, store or dispose of hazardous waste (except as exempted by these regulations) must first obtain operating permits from the Director for such activities and must have permits during the active life (including the closure period) of the units or facilities.”
4. Delete 270.1(c)(1)(i), 270.1(c)(1)(iii), 270.1(c)(2)(ii), and 270.1(c)(2)(ix). These exemptions do not apply in Rhode Island. In 270.1(c)(2)(iii), delete “40 CFR 261.4 or 261.5 (small generator exemption) and substitute “those parts of 40 CFR 261.4 adopted by Rhode Island.” In 270.1(c)(2)(vi), replace “ten days” with “seventy-two hours.” Also, add to the end of the provision: “Temporary Transfer and Storage Facilities shall meet the requirements specified in Rule 6.14 of these *Rhode Island Hazardous Waste Regulations*”
5. In 270.1(c)(2) add a sub-paragraph “(x) Owners and operators of facilities which accept, treat, and/or store only precious metal bearing waste and do not speculatively accumulate such waste [as defined in 40 CFR 261.1(c)]. These facilities are subject to the requirements of 40 CFR 266 Subpart F.”
6. Delete existing language in 270.1(c)(2)(i) and replace with “Generators who accumulate hazardous waste on-site in accordance with Rules 5.2A and 5.2D of these *Rhode Island Hazardous Waste Regulations* and in accordance with 40 CFR 262.34 except for 40 CFR 262.34(d)-(f), (g)-(i) [instead follow rule 5.2D] and (j)-(l) and except for the words “ or (d), (e), and (f) of this section depending on the amount of hazardous waste on site in the calendar month”, in 262.34(m).”
7. In 270.1(c)(2)(iii) add at the end of the paragraph the wording “With respect to the 261.4 reference, the scrap metal exclusion of 261.4(a)(13) and the conditional exclusion in 261.4(a)(14) do not apply for circuit boards that are components of those electronic devices as defined by the term “used electronic device” in Rule 3.0.”
8. In 270.1(c)(2)(v) delete existing language and replace with the following: “The owners or operators of elementary neutralization units as defined in 40 C.F.R. § 260.10. Also, the owners and operators of wastewater treatment units provided that all of the following conditions are met for each unit: (a) the unit receives and treats or stores an influent wastewater that is a hazardous waste as defined in these *Rhode Island Hazardous Waste Regulations* or generates and accumulates a wastewater treatment

sludge that is a hazardous waste as defined these *Rhode Island Hazardous Waste Regulations* or treats or stores a wastewater treatment sludge that is a hazardous waste as defined in these *Rhode Island Hazardous Waste Regulations* (b) the unit is being used to legitimately treat only wastewater, as defined at 47 Fed. Reg. 4706 (Feb. 2, 1982) (note: Concentrated hazardous wastes are not covered by this exemption. The disposal of concentrated hazardous waste down the drain is prohibited.) (c) the unit is a tank or tank system as defined in 40 C.F.R. § 260.10 (e.g., wastewaters when stored or transported in containers are not covered by the exemption), (d) the unit has a current ongoing discharge to surface waters or the sewers which is on site and is subject to regulation under Section 402 or 307(b) of the Federal Clean Water Act and Section 46-12-5 of the General Laws of Rhode Island, as amended (e.g., zero discharge units such as evaporators are not covered by this exemption, but rather must comply with the RCRA requirements for generators or Treatment, Storage and Disposal Facilities, as applicable, in addition to any requirements specified in any permit issued by the Department's Office of Water Resources or a Publicly Owned Treatment Works), and (e) the unit has been specifically described in a water permit application (e.g., in a schematic diagram) and specifically referenced in a water permit as being part of the facilities subject to regulation under the Federal Clean Water Act and Section 46-12-5 of the General Laws of Rhode Island (e.g., tanks used to store hazardous wastewaters or sludges not covered by a water permit application and permit are not covered by this exemption). Provided that any sludge or other waste materials generated from an elementary neutralization unit or a wastewater treatment unit must be managed as a hazardous waste if such sludge or waste material meets the criteria of a hazardous waste. The full *Hazardous Waste Regulations* apply to such sludge or other waste material when it leaves the exempted elementary neutralization unit or exempted wastewater treatment unit, e.g., when a sludge is stored in containers on site. For zero discharge units, the hazardous waste requirements apply both to any hazardous wastewaters and to any hazardous sludges, when either is generated."

9. In 270.1(c)(2)(viii)(C) delete the word "and".
10. Add 270.1(c)(2)(viii)(E): "Used electronics as described in Rule 13.2 of these regulations."
11. Add 270.1(c)(2)(viii)(F): "Silver-containing photo fixing solutions as described in Rule 13.3 of these regulations."
12. Add as 270.1(c)(2)(xi): "The re-use, recycling, or reclamation of hazardous waste when exempted from permitting by 40 CFR 261.6 as incorporated by reference with limitations in the "Hazardous Waste" definition in Rule 3.0 of these the *Rhode Island Hazardous Waste Regulations*"
13. Add as 270.1(d): "Additional *Permit restrictions for landfills and/or incinerators*. In addition to the other requirements incorporated by the *Rhode Island Hazardous Waste Regulations*:
 - (a) Operating permits will be granted only for those incinerator or landfill facilities that the applicant can show, by a preponderance of evidence, will be located, designed, constructed and operated so as to prevent all of the following:

- (i). Endangerment of an underground drinking water source beyond the facility boundary.
 - (ii). Endangerment of an aquifer which has been designated by any federal or Rhode Island state agency as a sole source aquifer.
 - (iii). Contamination of soil, groundwater, or surface water by discharge by any surface or sub-surface means causing a violation of any rule or regulation or standard of any federal or Rhode Island agency.
 - (b) Operating permits will not be granted for incinerator and/or landfill facilities which are to be located or are located in a one hundred year flood plain, a wetland, the direct recharge area of an existing or planned surface or groundwater community water system, the direct recharge area of a sole source aquifer or a coastal high hazard area, an active fault area or critical habitat.
 - (c) Operating permits will be granted only for those incinerator and/or landfill facilities for which an easement is granted to the state of Rhode Island. This easement shall be recorded in the land evidence records in the city or town 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 and/or treatment facility and the allowance of access to the property by the Director for the purpose of inspection, testing and investigations relating to protection of public health and the environment.”
14. In 270.2 delete the definition of “Existing hazardous waste management (HWM) facility or existing facility” and replace with: “Existing hazardous waste management (HWM) facility or existing facility means a hazardous waste management facility which is in operation on or before November 19, 1980.”
 15. In 270.2 delete the definition of “New hazardous waste management (HWM) facility or new facility” and replace with: “New hazardous waste management (HWM) facility or new facility means a hazardous waste management facility which began operation after November 19, 1980.”
 16. In 270.2 “Permit” definition, delete the words “and standardized permit (subpart J of this Part)”.
 17. In 270.2 delete the “Standardized permit” definition.
 18. Delete 270.10(a)(5) and (a)(6).
 19. Add as 270.10(c)(1): “The combined application and permit fee shall be twenty-five thousand dollars (\$25,000) for the issuance of a new permit and ten thousand dollars (\$10,000) for the renewal of a permit. Additional charges, if any, shall be determined by R.I.G.L. 23-19.1-14, as in effect at the time.”
 20. Delete 270.10(e)(1)(iii).
 21. In 270.10(f)(1) and 270.10(f)(2), delete the wording “Except as provided in paragraph (f)(3) of this section,” and delete 270.10(f)(3).
 22. Delete 270.10(h)(2).
 23. Delete the contents of 270.10(l). Rhode Island has not adopted the exemption addressed by that federal provision. Instead, add as 270.10(l) the following Rhode Island provision regarding inspections: “*Inspections*

- (1) The Department shall make or cause to be made such inspections, take such tests and samples and make such investigations as it deems necessary at an applicant's facility.
 - (2) The Department or other designated authorized personnel shall conduct inspections and shall have the right to enter without prior notice to inspect any hazardous waste management facility or proposed hazardous waste management facility for which an application has been received. Any application shall constitute permission for and willingness to comply with inspections, tests and investigations by the Director or his agents.
 - (3) The Department shall be afforded reasonable opportunity by the applicant to view the facility, examine records, obtain such required information as may be needed for inspection, testing and investigation, including the monitoring of any substances, and requiring the submission of reports. Refusal to allow reasonable inspections, tests or investigations or to submit reports shall constitute valid grounds for denial of a permit."
24. In 270.13(j) replace the words "listed or designated under 40 CFR part 261" with the words ", as defined in Rule 3 of the *Rhode Island Hazardous Waste Regulations*," and replace the words "such wastes" with the words "each of such wastes" for all instances.
 25. In 270.13(l) add, after the last sentence, "The facility, at minimum, must be outlined on a copy of the latest USGS Topographical Map."
 26. In 270.13 add a subparagraph "(o) For privately owned facilities, a list of the direct and indirect owners of the facility whether individual, partnership or corporation. For corporate owned facilities, include all officers, directors, and other persons owning ten percent (10%) or more of the corporate stock. "
 27. In 270.13 add a sub-paragraph "(p) A list of all owners of property, including addresses, within 500 feet of the perimeter of the facility."
 28. In 270.13 add a sub-paragraph, "(q) All plans, drawings, and maps shall be stamped by a professional engineer or land surveyor, as appropriate, registered with the State of Rhode Island. All plans, drawings, and maps shall be scaled to fit a standard 24 x 36 inch sheet wherever possible and shall be submitted in duplicate."
 29. In 270.13 add a sub-paragraph, "(r) The EPA Identification Number (I.D. No.) for both facilities covered by the federal I.D. number system and facilities not covered under the federal I.D. number system, must be obtained from the Department."
 30. In 270.14(b)(4) delete ", or a justification demonstrating the reasons for requesting a waiver of this requirement".
 31. In 270.14(b)(5) delete "264.1033, 264.1052, 264.1053, 264.1058, 264.1084, 264.1085, 265.1086, and 264.1088".
 32. Replace 270.14(b)(6) with "(6) A description of the preparedness and prevention plan, as required by 40 CFR 264 Subpart C."
 33. In 270.14(b)(7) delete ", and 264.200". Rhode Island is not authorized to administer the referenced regulations under 40 CFR part 264, subparts AA, BB and CC (RCRA air emissions regulations). Rather, the EPA directly administers the subparts AA, BB and CC regulations in Rhode Island."

34. In 270.14(b)(9) replace the word “ignitable” with “flammable”.
35. Delete 270.14(b)(11)(i and ii), 270.230(d)(4), and 270.14(b)(18) (not applicable in Rhode Island).
36. In the 270.14(b)(19) introduction, replace the words “61.0 meters (200) feet” with the words “30.5 meters (100) feet” and prior to the phrase “The map shall clearly show the following:”, add the sentence “The contour interval must also be sufficient to show patterns of surface drainage within 1000 feet of the perimeter of the facility.”
37. In each of 270.14(b)(19)(ii), (iv), and (xi) add the sentence, “ Include all within 1000 feet of the perimeter of the facility.” Revise 270.14(b)(19)(iii) to read “ Surface waters including intermittent streams, water courses, and watersheds of public surface water supplies; all within 1000 feet of the perimeter of the facility.”
38. In 270.14(b)(19)(vii) add the phrase, “Also, all property lines within 500 feet of the perimeter of the facility.”
39. Revise 270.14(b)(19)(ix) to read, “On-site wells and off-site public and private drinking water supply wells, within 1000 feet of the perimeter of the facility.”
40. In 270.14(b)(19) add a sub-paragraph, “(xiii) All water lines within 500 feet of the perimeter of the facility.”
41. In 270.14(b) add a sub-paragraph, “(23) For facilities that are not regulated units as defined in 264.90(a)(2), a groundwater monitoring plan capable of determining the facility's impact on the groundwater in the uppermost aquifer underlying the facility. This plan must supply information equivalent to that required by 40 CFR 264.90-100 for regulated units. The Director may waive this requirement upon written request of the operator where documented and demonstrated evidence is provided that any leakage or spillage of hazardous waste to the ground will be minimized to the greatest extent possible.”
42. In 270.14(b) add a sub-paragraph, “(24) A description of the manifest handling procedures of the facility.”
43. In 270.14 add a sub-paragraph, “ (e) All plans, drawings, and maps shall be stamped by a professional engineer or land surveyor, as appropriate, registered with the State of Rhode Island. All plans, drawings, and maps shall be scaled to fit a standard 24 x 36 inch sheet wherever possible and shall be submitted in duplicate.”
44. In 270.15(c) replace the word “ignitable” with “flammable”.
45. Delete 270.15(e), 270.16(k), 270.17(j), 270.24, 270.25, and 270.27. Rhode Island is not authorized to administer the referenced regulations under 40 CFR part 264, subparts AA, BB and CC (RCRA air emissions regulations). Rather, the EPA directly administers the subparts AA, BB and CC regulations in Rhode Island.”
46. In 270.15 add a new sub-paragraph, “(e) Where flammable or reactive wastes are stored, a description of procedures used to ensure compliance with 40 CFR 264.176.”
47. Delete 270.22. Rhode Island has not adopted the requirements for boilers and industrial furnaces to which this provision relates. Rather, the EPA directly administers these requirements in Rhode Island.

48. Add the following as the new first paragraph of 270.30 (to precede the existing 40 CFR 270.30 introductory paragraph): “The permit shall apply only to the facility in operation at the time the permit is issued. Separate permits shall be required for facilities which are located in separate geographic areas even though they are under the same management. Separate permits may be issued for distinct parts of a facility which can be identified as separate units.”
49. Add at the end of 270.30(a) “Whenever the Department determines that a permitted hazardous waste facility is not in compliance with all of the appropriate rules and regulations established by the Department, or that the permitted facility is not being operated in conformance with approved plans or permit conditions, it may order the permittee to take whatever corrective action is needed to secure compliance with the rules and regulations established by the Department.”
50. In 270.30(g) add the sentence “Any permit issued hereunder shall be the property of the State and loaned to a permittee and shall be maintained on the facility and kept visible.”
51. In 270.30(h) replace “records” with “records and reports”
52. In 270.30(i)(1), after the word “times”, add “, without prior notice,”
53. Add as 270.30(i)(5): “Perform tests and inspections as the Department deems necessary to determine compliance with permit.”
54. At the start of 270.30(l)(3), after the word “Transfers,,” add the sentence: “Prior to a change in ownership of the facility or legal entity operating the facility or location or discontinuance of services, the Director shall be notified.” Also, in 270.30(l)(3) in the second sentence after the word “Director” replace the word “may” with “shall”.
55. Add 270.30(n) “*Inspection reports and correction of deficiencies*”
 - (a) Hazardous waste facilities may be given prompt notice by the Department of deficiencies discovered as a result of an inspection, test or investigation.
 - (b) The permittee, upon notification, shall be responsible to take immediate steps to correct any adverse impact on the environment resulting from non-compliance and shall not have a defense in any legal action that it would have been necessary to halt or reduce operations in order to achieve compliance.”
56. In 270.31 title replace “Requirements for recording and reporting of monitoring results” with “Permit Specifications”
57. Add as 270.31(d): “All reporting requirements of operational activities.”
58. Add as 270.31(e): “The name and location of the facility.”
59. Add as 270.31(f): “A complete description of the operations at the facility requiring a permit with particular attention paid to any operational limitations and design capacity.”
60. Add as 270.31(g): “A complete description of the hazardous wastes stored and/or treated and/or disposed of at the facility.”
61. Add as 270.33(a)(1)(i): “New facilities must be in compliance with the *Rhode Island Hazardous Waste Regulations* prior to receiving an operating permit. Existing facilities may receive a permit prior to compliance with the *Rhode Island Hazardous Waste Regulations* only in those instances where a compliance schedule is an integral part of the permit.”
62. In 270.40(b) delete from the first sentence “or as a routine change with prior approval under 40 CFR 124.213.” Also, add after the third sentence (after the word “Director.”):

- “The new entity, prior to commencing as owner or operator of the facility, shall also submit to the Director information indicating its technical ability to safely operate the facility, its financial ability to maintain such facility, and any additional information the Director may request. After a review of this information, the Director shall either approve or disapprove the transfer of the permit.” Also, add just prior to the fourth sentence (before the word “When”): “If the Director approves of the transfer of the permit, the original permittee shall remain fully liable under the terms of the permit and under the requirements of the *Rhode Island Hazardous Waste Regulations* until the Director has transferred the operating permit to the new owner or operator.”
63. Change title of 270.41 to “Modification or revocation and reissuance or suspension of permits.”
 64. In 270.41(a)(2) add as a new ending sentence “This shall include any information indicating the cumulative effects on the environment are unacceptable.”
 65. Delete 270.41(b)(3).
 66. Add 270.41(d): “*Causes for suspension.* The following is cause to suspend a permit: Cause exists for termination under §270.43 and the Director determines that suspension is appropriate.”
 67. Revise 270.43(a)(2) to read “ The permittee’s failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee’s misrepresentation of any relevant facts at any time, or that there had been a conviction or plea, relative to a crime committed, as set forth in RIGL 23-19.1-10(p) and (d-f); or”.
 68. Add as 270.43(a)(4): “Refusal to allow reasonable inspections, tests or investigations or to submit reports shall constitute valid grounds for denial or revocation of a permit”.
 69. Add as 270.43(a)(5): “the permittee’s offering, conferring or agreeing to confer any benefit to induce any other person to violate the provisions of the “*Rhode Island Hazardous Waste Management Act*”, or the provisions of these *Rhode Island Hazardous Waste Regulations*, or the provisions of any other law, rule or regulation relating to the collection, transportation, treatment, storage, or disposal of solid waste or hazardous waste, per RIGL 23-19.1-10(p)(3)(ii).”
 70. Add as 270.43(a)(6): “The permittee’s coercion of a customer by violence or economic reprisal or threat to deny a customer the use of the permittee’s services, per RIGL 23-19.1-10(p)(3)(iii).”
 71. Add as 270.43(a)(7): “The permittee’s preventing, without the Director’s authorization, any transporter or other permittee from delivering solid waste or hazardous waste to its facility or to another licensed Treatment, storage, or disposal facility, per RIGL 23-19.1-10(p)(3)(iv).”
 72. Add as 270.43(c): “Change in location of the facility. A permit shall immediately become void and shall be returned to the Director upon change in facility location.”
 73. Add as 270.43(d): “A permit shall immediately become void and shall be returned to the Director upon the sale of the facility or change in ownership of the legal entity operating the facility, unless the change has been approved by the Director under 40 CFR 270.40.”
 74. Add as 270.43(e): “Per RIGL 23-19.1-10(k), the permittee may appeal the Director’s decision to revoke his permit, subject to the “*Administrative Rules of Practice and Procedure for the Administrative Adjudication for Environmental Matters*”. Such appeal must be in writing and must be filed with the clerk of the AAD within fifteen (15)

calendar days of the permittee's receipt of the notice of revocation of the permit. The appeal shall be heard before an AAD hearing officer.

75. Replace 270.50(a)–(d) with “Permits for hazardous waste facilities shall be issued for a period not to exceed five (5) years from the date of expiration of the expiring permit and may be extended or renewed by the Director for a period not to exceed ten (10) years from the date upon which the original permit was effective. A new permit is required at the end of the ten-year period and a complete application for that permit must be received prior to 180 days from the expiration date of the present permit.”
76. In 270.51 “Continuation of expiring permits”, replace the text of 270.51 with the following: “Relative to expiring permits, a “timely” application is one that is submitted more than 180 days prior to the permit expiration date. If a permittee has submitted a timely and complete renewal application (for the renewal of a five year expiring permit) or a timely and complete new application (required every ten years of operation), then the terms and conditions of the expiring RCRA permit continue in force beyond the expiration date of the existing permit, if required during the permitting process, but only until the effective date of the State’s issuance or denial of the RCRA permit currently applied for. Otherwise, the terms and conditions of the expiring RCRA permit do not continue in force beyond its expiration date and the permit to operate shall be considered to be expired.”
77. Add as 270.52 “Renewal of permits. This section applies to the renewal of permits at the end of their initial five-year terms, for an additional five years. Permits reissued to existing facilities at the end of prior permits’ full ten year terms are considered new permits and follow the requirements for new permits set forth elsewhere in these regulations.
 - (a) The Office of Waste Management shall hold a public comment period and hearing, prior to renewal of any permit.
 - (b) Within fifteen (15) days following the preparation of a draft renewal permit, the Office of Waste Management shall give notice of the preparation of a draft renewal permit and a public comment period and hearing. Any changes in permit conditions shall be described in the notice. Such notice shall be published in a newspaper of general circulation in the area affected, and shall also be sent by mail directed to the last known address of the following persons (any person otherwise entitled to receive such notice may waive his or her right to receive the notice):

the applicant, all persons requesting such notification in writing, all property owners within five hundred feet (500') of the perimeter of the site of the facility, and the city or town in which the hazardous waste management facility is located, including the mayor or town manager and the city or town council president, EPA, federal and state agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the Advisory Council on Historic Preservation and State historical preservation officers. The list of property owners within five hundred feet of the site shall be provided by the applicant to the Office of Waste Management. The notice shall include the beginning and ending dates for the comment period, the address where comments will be received, and the name and telephone number of a person to contact for further information.

- (c) No earlier than sixty (60) days nor later than seventy-five (75) days following the public notice of the preparation of a draft renewal permit, a hearing shall be held to receive public comment. Comments from the applicant and/or any interested persons shall be recorded at the public hearing. Written comments, which also shall be considered part of the record, may be submitted at least thirty days prior to the public comment hearing and until thirty (30) days following the close of the public comment hearing, 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 be accompanied by a response to each substantive public comment. In the case of a denial, the Office of Waste Management will cite each statutory or regulatory requirement that the applicant did not satisfy. Renewal permits shall be issued only upon a showing that the applicant meets conditions regarding proof of financial assurance, evidence of adequate liability insurance, and the other conditions as required by these regulations. The renewal permit or the denial shall be sent to the applicant and a copy of the same shall be sent to the municipality in which the facility or proposed facility is located or proposed to be located. Notice of the permit decision shall also be sent to each person who submitted written comments or requested notice of the final permit decision, and a copy of the renewal permit or denial shall be sent to such persons, upon request.
- (e) If the decision of the Office of Waste Management is to deny the renewal permit, the permittee, as per RIGL 23-19.1-10(k), may appeal this decision to the Department's Administrative Adjudication Division (AAD), subject to "Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters". Such appeal must be in writing and must be filed with the clerk of AAD within fifteen (15) calendar days of the permittee's receipt of the notice of denial of the renewal permit. The appeal shall be heard before an AAD hearing officer.

78. Delete 270.60(a) wording and replace it with "Ocean disposal of hazardous waste is prohibited in Rhode Island and therefore is not eligible for a permit." Delete

270.60(b) wording and replace it with “Disposal of hazardous waste by underground injection control (UIC) is prohibited in Rhode Island and therefore is not eligible for a permit.” Also, in 270.13(l) delete the words “each well where fluids from the facility are injected underground,” since such underground injection is prohibited in Rhode Island.

79. Delete 270.63, 270.64, 270.65, 270.66, 270.67, 270 Subpart I, and 270 Subpart J. The reduced requirements referenced by these regulations have not been adopted by Rhode Island.
80. Add to 270.72(a)(1) after the word “disposal” the phrase “and if the Director approves such application”
81. In 270.72(a)(4) add after the first sentence (after the word “change.”) “The new entity, prior to commencing as owner of operator of the facility, shall also submit to the Director information indicating its technical ability to safely operate the facility, its financial ability to maintain such facility, and any additional information the Director may request. After a review of this information, the Director shall either approve or disapprove the transfer of the permit.”
82. Delete 270.42(l).

C. Incorporation of 40 CFR Part 124 Federal Regulations regarding Treatment, Storage and Disposal Facilities

40 CFR part 124 is incorporated by reference in its entirety except as provided below: These regulations apply to the issuance of new permits, including permits issued to existing facilities at the end of prior permits’ full ten year terms. Procedures for the renewal of permits at the end of their initial five year terms, for an additional five years, are specified in 40 CFR 270.52 of these regulations.

1. Delete 124.1, 124.2, 124.4, 124.7, 124.9, 124.13, 124.14, 124.16, 124.18, 124.20, 124.21, and 124 Subparts C – D. These provisions do not apply to RCRA and/or to State programs. Also delete 124 Subpart G. Rhode Island has not adopted the reduced standardized permit requirements of Subpart G.
2. Delete 124.3 and replace with the following:
“§ 124.3 Application for a permit
(a) *Application Requirements*
 - (1) Any person who requires a permit under the RCRA program shall complete, sign, and submit to the Director an application for each permit required under § 270.1. Applications are not required for POTW RCRA permits by rule (§ 270.60).
 - (2) The Director shall not begin the processing of a permit until the applicant has fully complied with the application requirements. See §§ 270.10, 270.13, and 270.14.
 - (3) Permit applications must comply with the signature and certification requirements of § 270.11.

- (4) Upon receipt of a permit application for a new facility, the Director shall notify the chief executive officer and the city or town council president of the municipality in which the facility is proposed to be located of the receipt of such application.”
- (5) The Director shall review the application for completeness. Upon completing the review, the Director shall notify the applicant in writing as to whether or not the application is complete. For any application deemed deficient, the Director shall provide a statement of the deficiencies, listing the information needed to make the application complete. After the application is completed, the Director may request additional information needed to clarify, modify, or supplement previously submitted information.
- (6) If the applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement actions may be taken.

3. Delete 124.5 and replace with the following:

“§124.5 Modification, revocation and reissuance, suspension, or termination of permits.

- (a) Permits may be modified, revoked and reissued, suspended, or terminated either at the request of any interested person (including the permittee) or upon the Director’s initiative. However, permits may only be modified, revoked and reissued, suspended, or terminated for the reasons specified in §270.41 (except for 270.41(b)(3)) and 270.43 (as adopted and revised by these Regulations). All requests shall be in writing and shall contain facts or reasons supporting the request.
- (b) If the Director decides the request is not justified, he or she shall send the requester a brief written response giving a reason for the decision. Denials of requests for modification, revocation and reissuance, suspension, or termination are not subject to public notice, public comment, or public hearings. Such denials may be appealed by requesting a hearing with the Department’s Administrative Adjudication Division (AAD).
- (c) **Modification, Revocation and Reissuance**
 - (1) If the Director tentatively decides to modify or revoke and reissue a permit under 40 CFR 270.41 (other than under 270.41(b)(3)) or under 270.42(c), he or she shall prepare a draft permit under §124.6 incorporating the proposed changes. The Director may request additional information and, in the case of a modified permit, may require the submission of an updated application. In the case of revoked and reissued permits, the Director shall require the submission of a new application.
 - (2) In a permit modification under this section, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the

unmodified permit. When a permit is revoked and reissued under this section, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance preceding the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.

(3) Class 1 and 2 modifications as defined in §270.42 (a) and (b) are not subject to the requirements of this section.

(d) If the Director tentatively decides to terminate or suspend a permit under §270.43 or 270.41(d), he or she shall issue a written notice of intent to terminate or suspend. A notice of intent to terminate or suspend is considered a type of draft permit that follows the same procedures as any other draft permit prepared under § 124.6. ”

4. Delete 124.6 and replace with the following:

“§ 124.6 Draft permits and application denials

- (a) Once an application is complete, the Director shall tentatively decide whether to prepare and issue a draft permit or to deny the application. A draft permit shall not be issued nor shall public notice of a draft permit be issued if the application is incomplete. A permit application may also be denied for causes provided in RIGL 23-19.1-10(c) – (j) and (m), unless conditions in 23-19.1-10 (l) are satisfied.
- (b) If the Director tentatively decides to deny the permit application, he or she shall issue to the applicant a notice of intent to deny the application. A notice of intent to deny the application is considered a type of draft permit which follows the same procedures as any other draft permit prepared under § 124.6. If the Director’s final decision (§124.15) is that the tentative decision to deny the permit application is correct, that such final decision may be appealed by requesting a hearing with the Department’s Administrative Adjudication Division (“AAD”) under §124.19. If the Director’s final decision (§124.15) is that the tentative decision to deny the permit application was incorrect, he or she shall withdraw the notice of intent to deny and proceed to prepare a draft permit under paragraph (c) of this section.
- (c) If the Director decides to prepare and issue a draft permit, he or she shall prepare and issue to the applicant a draft permit that contains the following information:
 - (1) All conditions under §§ 270.30 and 270.32.
 - (2) All compliance schedules under § 270.33.
 - (3) All monitoring requirements under § 270.31; and
 - (4) Standards for treatment, storage, and/or disposal facilities and other preconditions under § 270.30.

- (d) All draft permits shall be accompanied by a fact sheet required under § 124.8 and shall be publicly noticed (§ 124.10) and made available for public comment (§ 124.11). The Director shall give notice of a public informational workshop (§ 124.8) and public comment hearing (§ 124.12), issue a final decision (§ 124.15) and respond to public comments (§ 124.17). An appeal may be taken under § 124.19.”

5. Delete 124.8 and replace with:

“ § 124.8 Informational workshop and fact sheet.

- (a) Within fifteen (15) days after the date of the public notice of issuing the draft permit, the Office of Waste Management shall hold an informational workshop. The purpose of the informational workshop shall be to discuss the type of facility or activity 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.
- (b) A fact sheet containing the information in § 124.8(a) shall be provided to the applicant and to any other requesting person.”

6. Delete 124.10 and replace with:

“ §124.10 Public notice of permit actions, informational workshop, public hearing, and public comment period.

(a) Scope

(1) The Director shall give public notice that the following actions have occurred:

- (i) A permit application has been tentatively denied under §124.6(b);
- (ii) A draft permit has been prepared and issued under §124.6(c);
- (iii) An informational workshop and public comment hearing under §§ 124.8 and 124.12 respectively have been scheduled.

(b) Timing

(1) Public notice of the preparation and issuance of a draft permit or its tentative denial shall allow at least sixty (60) days for public comment; at least thirty (30) days prior to the public comment hearing and thirty (30) days following the close of the public comment hearing, which shall constitute the public comment period.

- (2) Public notice of the informational workshop, public comment period, and public hearing shall be given following the issuance of the draft permit or notice of intent to deny the application. The date of the public notice shall be no more than fifteen (15) days prior to the holding of the informational workshop and shall be sixty (60) to seventy five (75) days prior to the holding of the public comment hearing.

(c) Methods

Public notice of activities described in paragraph (a)(1) of this section shall be given by the following methods:

- (1) By mailing a copy of the written notice to the last known address of the following persons (any person otherwise entitled to receive a notice under this paragraph may waive his or her rights to receive this notice);
 - (i) The applicant;
 - (ii) EPA
 - (iii) Federal and State agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the Advisory Council on Historic Preservation and State Historical Preservation Officers.
 - (iv) Persons on a mailing list developed by:
 - (A) Including those who request to be on the list;
 - (B) Soliciting persons for "area lists" from participants in past permit proceedings in that area; and
 - (C) Notifying the public of the opportunity to be put on the mailing list through periodic publication in a newspaper of general circulation and via other means that the Department decides to employ.
 - (v) All property owners within five hundred (500) feet of the perimeter of the facility's site. This list of owners shall be provided by the applicant to the Office of Waste Management;
 - (vi) The city or town in which the facility is located, including the mayor or town manager and the town or city council president.
- (2) By publication of a legal notice in a daily or weekly newspaper of general circulation in the area affected and by broadcast over local radio stations.

(d) Contents

All public notices shall contain the following minimum information:

- (1) Name and address of the Office processing the permit action for which public notice is being given;
- (1) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;
- (2) A brief description of the operations conducted at the facility or activity described in the permit application or draft permit;
- (3) Name, address and telephone number of a Department person from whom interested persons may obtain further information, relative to the draft permit

or notice of intent to deny the application, the fact sheet, and the permit application;

- (4) A brief description of the comment procedures required by §§ 124.11 and 124.12, the date, time and place of the informational workshop and public comment hearing, and other procedures by which the public may participate in the final permit decision;
- (5) Reference to the date(s) of any previous public notice(s) relating to the permit;
- (6) A brief description of the nature and purpose of the informational workshop and public comment hearing, including the applicable rules and procedures.

- (e) In addition to the public notice described in paragraph (d), the Department shall make available to the public the fact sheet required by § 124.8, the permit application, and the draft permit or notice of intent to deny the application and shall notify the persons listed in paragraph (c)(1) that this information is available to them. ”

7. Delete 124.11 and replace with the following:

“§ 124.11 Public comments.

During the public comment period provided under § 124.10, any interested person may submit written comments on the draft permit. All written comments shall be considered and made part of the record of public comment, along with a transcript of oral comments made at the public hearing. All comments shall be considered in making the final decision and shall be answered as provided in § 124.17.”

8. Delete 124.12 and replace with the following:

“§ 124.12 Public hearings.

- (a) The Director shall hold a public comment hearing for each draft permit prepared. Public notice of the hearing shall be given as specified in § 124.10.
- (b) Any person may submit oral or written statements and data concerning the draft permit.
- (c) Comments from the applicant and/or any other interested person shall be recorded at the hearing. A tape recording or written transcript of the hearing shall be made available to the public.”

9. Delete 124.15 and replace with;

“§124.15 Issuance or denial of permit or acceptance or denial of application

Within ninety (90) days after the close of the public comment period, the Director shall issue or deny the permit or accept or deny the application, as appropriate. The permit or denial of the permit or acceptance or denial of the application, as appropriate, shall be in writing and shall be accompanied by a response to each substantive public comment. In the case of a denial, the Director will cite each statutory or regulatory requirement which the applicant did not satisfy. Permits shall be issued only with conditions including proof of financial responsibility (to include, per 40 CFR 264 Subpart H, financial assurance for closure (and post-

closure, if applicable) and liability coverage) and such other conditions as required by these regulations. The permit or its denial, or the acceptance or denial of the application, as appropriate, shall be sent to the applicant and a copy of the same shall be sent to the municipality in which the facility or proposed facility is located or proposed to be located. Notice of the permit or application decision shall also be sent to each person who submitted written comments or requested notice of the final permit decision, and a copy of the permit shall be sent to such persons upon request.”

10. Delete 124.17 and replace with the following:

“§ 124.17 Response to public comments.

- (a) At the time that any final permit decision is issued under § 124.15, the Director shall issue a response to public comments. The response shall:
- (1) Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change(s); and
 - (2) Briefly describe and respond to all significant public comments raised during the public comment period or during the hearing.
- (b) The response to public comments shall be made available to the public.”

11. Delete 124.19 and replace with;

“§124.19 Appeal of permit and application decisions

Any interested person, as per R.I.G.L. 23-19.1-10(b)(5), may appeal the decision of the Office of Waste Management to the Department’s Administrative Adjudication Division (“AAD”), subject to “Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters” and subject to conditions in RIGL 23-19.1-10(b)(6) and (b)(7). All appeals must be in writing and must be filed with the clerk of the AAD within thirty (30) calendar days of receipt of notice of the contested permitting action, except that any permittee who receives a notice of intent to revoke a permit or deny a renewal permit shall have fifteen (15) days from the receipt of this notice to submit a written appeal to the clerk of the AAD, per RIGL 23-19.1-10(k). All appeals shall be heard before AAD hearing officers.”

12. Delete 124.31 and replace with the following:

“§ 124.31 Pre-application public meeting and notice.

- (a) *Applicability.* The requirements of this section shall apply to all applicants seeking initial permits for hazardous waste management facilities, and shall also apply to those applicants seeking a new permit (i.e., every ten years). The requirements of this section shall also apply to applicants seeking renewal of permits for such facilities, i.e., after five years of operation with an existing permit, only if the renewal application is proposing a significant change in facility operations. For the purposes of this section, a “significant change” is any change that would qualify as a class 3 permit modification under 40 CFR 270.42. The requirements of this section do not apply to permit modifications under 40 CFR 270.42 (public notice

- requirements for those modifications are detailed in 270.42) or to applications that are submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.
- (b) Prior to the submission of a permit application for a hazardous waste management facility, the applicant must hold at least one meeting with the public in order to solicit questions from the community and inform the community of proposed hazardous waste management activities. The applicant shall post a sign-in sheet or otherwise provide a voluntary opportunity for attendees to provide their names and addresses.
 - (c) The applicant shall submit a summary of the meeting, along with the list of attendees and their addresses developed under paragraph (b) of this section, and copies of any written comments or materials submitted at the meeting, to the Department
 - (d) The applicant must provide public notice of the pre-application meeting at least 30 days prior to the meeting. The applicant must maintain, and provide to the permitting agency upon request, documentation of the notice.
 - (1) The applicant shall provide public notice in all of the following forms:
 - (i) *A newspaper advertisement.* The applicant shall publish a notice, fulfilling the requirements in paragraph (d)(2) of this section, in a newspaper of general circulation in the county or equivalent jurisdiction that hosts the proposed location of the facility. In addition, the Director shall instruct the applicant to publish the notice in newspapers of general circulation in adjacent counties or equivalent jurisdictions, where the Director determines that such publication is necessary to inform the affected public. The notice must be published as a display advertisement.
 - (ii) *A visible and accessible sign.* The applicant shall post a notice on a clearly marked sign at or near the facility, fulfilling the requirements in paragraph (d)(2) of this section. If the applicant places the sign on the facility property, then the sign must be large enough to be readable from the nearest point where the public would pass by the site.
 - (iii) *A broadcast media announcement.* The applicant shall broadcast a notice, fulfilling the requirements in paragraph (d)(2) of this section, at least once on at least one local radio station or television station. The applicant may employ another medium with prior approval of the Director.
 - (iv) *A notice to the permitting agency.* The applicant shall send a copy of the newspaper notice to the Department and to the appropriate local government unit, in accordance with §124.10(c)(1)(vi).
 - (2) The notices required under paragraph (d)(1) of this section must include:
 - (i) The date, time, and location of the meeting;
 - (ii) A brief description of the purpose of the meeting;
 - (iii) A brief description of the facility and proposed operations, including the

address or a map (e.g., a sketched or copied street map) of the facility location;

- (iv) A statement encouraging people to contact the facility at least 72 hours before the meeting if they need special access to participate in the meeting; and
- (v) The name, address, and telephone number of a contact person for the applicant. “

13. Delete 124.32 and replace with the following:

“§ 124.32 Public notice requirements at the application stage.

- (a) *Applicability.* The requirements of this section shall apply to all applicants seeking initial permits for hazardous waste management facilities and shall also apply to those applicants seeking a new permit (i.e. every ten years). The requirements of this section shall also apply to applicants seeking renewal of hazardous waste management facility permits, i.e., after five years of operation with an existing permit, only if the renewal application is proposing a significant change in facility operations. For the purposes of this section, a “significant change” is any change that would qualify as a class 3 permit modification under 40 CFR 270.42. The requirements of this section do not apply to permit modifications under 40 CFR 270.42 (public notice requirements for those modifications are detailed in 270.42) or permit applications submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.
- (b) Notification at application submittal.
 - (1) The Director shall provide public notice as set forth in §124.10(c)(1)(iv) and (v), and notice to appropriate units of State and local government as set forth in §124.10(c)(1)(vi), that a permit application has been submitted to the Agency and is available for review.
 - (2) The notice shall be published within a reasonable period of time after the application is received by the Director. The notice must include:
 - (i) The name and telephone number of the applicant's contact person;
 - (ii) The name and telephone number of the permitting agency's contact office, and a mailing address to which information, opinions, and inquiries may be directed throughout the permit review process;
 - (iii) An address to which people can write in order to be put on the facility mailing list;
 - (iv) The location where copies of the permit application and any supporting documents can be viewed and copied;
 - (v) A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location on the front page of the notice; and
 - (vi) The date that the application was submitted.

- (c) Concurrent with the notice required under §124.32(b) of this subpart, the Director must place the permit application and any supporting documents in a location accessible to the public in the vicinity of the facility or at the Department's office. “

14. Delete 124.33 and replace with the following:

“§ 124.33 Information repository.

- (a) *Applicability.* The requirements of this section apply to all applications seeking initial permits, renewal permits (i.e., after five years of operation under an existing permit), and new permits (every ten years) for hazardous waste management facilities.
- (b) The Director may assess the need, on a case-by-case basis, for an information repository. When assessing the need for an information repository, the Director shall consider a variety of factors, including: the level of public interest; the type of facility; the presence of an existing repository; and the proximity to the nearest copy of the administrative record. If the Director determines, at any time after submittal of a permit application, that there is a need for a repository, then the Director shall notify the facility that it must establish and maintain an information repository. (See 40 CFR 270.30(m) for similar provisions relating to the information repository during the life of a permit).
- (c) The information repository shall contain all documents, reports, data, and information deemed necessary by the Director to fulfill the purposes for which the repository is established. The Director shall have the discretion to limit the contents of the repository.
- (d) The information repository shall be located and maintained at a site chosen by the facility. If the Director finds the site unsuitable for the purposes and persons for which it was established, due to problems with the location, hours of availability, access, or other relevant considerations, then the Director shall specify a more appropriate site.
- (e) The Director shall specify requirements for informing the public about the information repository. At a minimum, the Director shall require the facility to provide a written notice about the information repository to all individuals on the facility mailing list.
- (f) The facility owner/operator shall be responsible for maintaining and updating the repository with appropriate information throughout a time period specified by the Director. The Director may close the repository at his or her discretion, based on the factors in paragraph (b) of this section. “

8.0 OPERATIONAL REQUIREMENTS FOR TREATMENT, STORAGE AND DISPOSAL FACILITIES

Applicability: This rule shall apply to treatment, storage and Disposal Facilities. This rule does not apply to facilities that operate in accordance with Rule 6 as temporary transfer and storage facilities.

8.1 Incorporation of Federal Regulations regarding Treatment, Storage and Disposal Facilities

A. 40 CFR Part 264 is incorporated by reference in its entirety except as provided below, and except as provided in Rule 16 “Corrective Action” and except as otherwise noted in these Rules and Regulations:

1. Delete 264.1(c), 264.1(d), 264.1(g)(1), 264.1(g)(4), and 264.1(g)(12). These exemptions do not apply in Rhode Island.
2. Delete existing language in 264.1(g)(3) and replace with “A generator accumulating hazardous waste on-site in accordance with Rules 5.2A and 5.2D of these *Rhode Island Hazardous Waste Regulations* and in accordance with 40 CFR 262.34 except for 40 CFR 262.34 (d)-(f), (g) – (i) (instead follow Rule 5.2D), and (j) – (l), and except for the words “or (d), (e), and (f) of this section, depending on the amount of hazardous waste on site in that calendar month”, in 262.34(m);”
3. Delete 264.1(f), since the State of Rhode Island rather than the EPA is directly operating the RCRA program in Rhode Island. However, the Part 264 requirements do apply in Rhode Island because they have been incorporated by reference by these Rules and Regulations, with exceptions as noted.
4. In 264.1(g)(2) at the end of the sentence add the words “and except that in 261.6(a)(3)(ii) the scrap metal exclusion of 261.4(a)(13) does not apply to circuit boards that are components of those electronic devices as defined by the term “used electronic device” in Rule 3.0.
5. Add as 264.1(g)(5)(i), 264.1(g)(6)(i), and 264.1(g)(10)(i) “Operations must be carried out in a system where equipment has been designed, engineered, and constructed so as to protect human health and the environment, and so as to comply with all requirements within OSHA standards.”
6. Delete existing language in 264.1(g)(6), and replace with the following: “The owner or operator of an elementary neutralization unit as defined in 40 C.F.R. § 260.10. Also, the owner and operator of a wastewater treatment unit provided that all of the following conditions are met: (a) the unit receives and treats or stores an influent wastewater that is a hazardous waste as defined in these *Rhode Island Hazardous Waste Regulations* or generates and accumulates a wastewater treatment sludge that is a hazardous waste as defined in these *Rhode Island Hazardous Waste Regulations* or treats or stores a wastewater treatment sludge that is a hazardous waste as defined in these *Rhode Island Hazardous Waste Regulations* (b) the unit is being used to legitimately treat only wastewater, as defined at 47 Fed. Reg. 4706 (Feb. 2, 1982). (Note: concentrated hazardous wastes are not covered by this exemption. The disposal

of concentrated hazardous waste down the drain is prohibited). (c) the unit is a tank or tank system as defined in 40 C.F.R. § 260.10 (e.g., wastewaters when stored or transported in containers are not covered by the exemption), (d) the unit has a current ongoing discharge to surface waters or the sewers which is on site and is subject to regulation under Section 402 or 307(b) of the Federal Clean Water Act and Section 46-12-5 of the General Laws of Rhode Island, as amended (e.g., zero discharge units such as evaporators are not covered by this exemption, but rather must comply with the RCRA requirements for generators or Treatment, Storage and Disposal Facilities, as applicable, in addition to any requirements specified in any permit issued by a water program by the Department's Office of Water Resources or a publicly owned treatment facility), and (e) the unit has been specifically described in a water permit application (e.g., in a schematic diagram) and specifically referenced in a water permit as being part of the facilities subject to regulation under the Federal Clean Water Act and Section 46-12-5 of the General Laws of Rhode Island (e.g., tanks used to store hazardous wastewaters or sludges not covered by a water permit application and permit are not covered by this exemption). Provided that if the owner or operator of either an elementary neutralization unit or a wastewater treatment unit is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined 40 C.F.R. § 268.40, Table Treatment Standards for Hazardous Wastes), or reactive (D003) waste, to remove the characteristic before land disposal, the owner/operator must comply with the requirements set out in 40 C.F.R § 264.17(b). Provided also that any sludge or other waste materials generated from an elementary neutralization unit or a wastewater treatment unit must be managed as a hazardous waste if such sludge or waste material meets the criteria of a hazardous waste. The full hazardous waste regulations apply to such sludge or other waste material when it leaves the elementary neutralization unit or wastewater treatment unit, e.g., when a sludge is stored in containers on site. For zero discharge units, the hazardous waste requirements apply both to any hazardous wastewaters and to hazardous sludges, when either is generated."

7. In 264.1(g)(9) replace "ten days" with "seventy-two hours". Also, add to the end of this provision: "Temporary Transfer and Storage Facilities shall meet the requirements specified in Rule 6.14 of these *Rhode Island Hazardous Waste Regulations*."
8. In 264.1(g)(11)(iii) delete "and".
9. Add 264.1(g)(11)(v) "Used electronics as described in Rule 13.2 of these regulations;"
10. Add 264.1(g)(11)(vi) "Silver-containing photo fixing solutions as described in rule 13.3 of these regulations."
11. In 264.1(j)(7) replace "264.18(b)" with "264.18(b), except for 264.18(b)(1)(ii), including (A) – (D)".
12. Add to 264.10 the sub-paragraph "(c) Owners and operators of facilities that each initiate a hazardous waste shipment must also comply with Rules 5.0 – 5.12 of these rules and regulations."

13. Add to 264.10 the sub-paragraph “(d) In addition to these General Facility Standards, the permittee shall also have a general duty to at all times properly operate and maintain the facility. This includes adequate staffing, training, laboratory and process controls and adequate back-up systems where necessary.”
14. In 264.12(a)(1) after “Regional Administrator” add: “and the Director”; also in the last sentence of paragraph (a)(1) after “source” add “to the Regional Administrator” and after “not required” add: “but is required to be sent to the Director at least four weeks in advance of the expected arrival date at the facility”
15. In 264.13(b)(6) delete “264.1034(d), 264.1063(d), 264.1083,”. Rhode Island is not authorized to administer the referenced regulations under 40 CFR part 264, subparts AA, BB and CC (RCRA air emissions regulations). Rather, the EPA directly administers the subparts AA, BB and CC regulations in Rhode Island.
16. Delete 264.13(b)(8).
17. In 264.15(b)(4), in the second sentence delete the words “, except for Performance Track member facilities, that must inspect at least once each month, upon approval by the Director, as described in paragraph (b)(5) of this section”. Also in 264.15(b)(4), replace “264.278” with “264.273” and delete “264.1033, 264.1052, 264.1053, 264.1058, and 264.1083 through 264.1089”.
18. Delete 264.15(b)(5).
19. In 264.17 replace all instances of the word “ignitable” with “flammable”.
20. Delete 264.18(a).
21. Delete 264.18(b)(1)(ii) including its paragraphs (A) – (D) and in 264.18(b)(1)(i) replace “;or” with a “.”, and in 264.18(b)(1) replace “A facility located in a 100-year floodplain” with “Only facilities that perform storage and/or treatment (not disposal) may be located in 100 year floodplains and such facilities”.
22. In 264.56(g) add, after the word “chapter”, “ and in accordance with Rules 5 and 6 of these Rules and Regulations”.
23. In 264.70(a) replace “ § 264.1 provides otherwise” with “those portions of § 264.1 adopted by the Department provide otherwise”.
24. In 264.71 add an introductory paragraph immediately prior to paragraph (a); “Except for facilities exempted by § 264.70 and except for facilities subject to § 264.71(b) [receiving waste that must at least be accompanied by a shipping paper in lieu of a manifest], the facility owner or operator must not accept any hazardous waste without a completed Manifest. All waste required to be manifested shall employ use of the federal manifest forms. These manifest requirements also pertain to manifests received by the facility from the generator after the shipment has been received and accepted [based on a shipping paper] as described in § 264.71(b). Additionally, the facility owner or operator shall submit to the Department the names and signatures of all agents of the owner or operator authorized to sign the manifest.
25. In 264.71(a) add a sub-paragraph; “(2)(vi) Send a copy of the signed manifest to the Department and to the state where the waste was generated (if required by that state), within five days of receipt of the waste at the facility (or sooner if required by another state). All facilities, whether they mail copies of individual manifests or submit individual manifest information electronically, shall also submit to the Department a quarterly report for all manifests received in that quarter in an electronic format

acceptable to the Department. This submission shall include a written signed statement attesting to the accuracy and completeness of the information. This quarterly report shall include the following data for each manifest:

- 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

26. In 264.71(b) add a sub-paragraph; “(6) Send a copy of the signed manifest to the Department and to the state where the waste was generated (if required by that state), within five days of receipt of the waste at the facility (or sooner if required by another state). However, if the facility did not receive a manifest within five days of receipt of the waste at the facility (or within any shorter period required for submission by another state), then send a copy of the signed and dated shipping paper to the Department and to the state where the waste was generated (if required by that state) within five days of receipt of the waste at the facility (or sooner if required by another state). In addition, upon later receiving the manifest, send a copy of the signed manifest to the Department and to the state where the waste was generated (if required by that state), within five days of receipt of the manifest (or sooner if required by another state). With respect to sending a copy of the manifest and/or shipping paper to the Department, the owner or operator may alternatively satisfy this requirement by submitting the information on the manifest and/or shipping paper electronically to the Department in a format acceptable to the Department and in a time frame greater than five days but not less than quarterly. All facilities, whether they mail copies of individual manifests and/or shipping papers or submit individual manifest information electronically, shall also submit to the Department a quarterly report for all manifests and/or shipping papers received in that quarter in an electronic format acceptable to the Department. This submission shall include a written signed statement attesting to the accuracy and completeness of the information. This quarterly report shall include the following data for each manifest:

- 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

27. In 264.71(c) replace the words “the requirements of part 262 of this chapter” with the words “”Rules 5.0 – 5.12 of these Rules and Regulations” and replace all instances of “§ 262.34” with “§ 262.34, except as provided in Rules 5.2(A) and 5.2(D) and except for § 262.34 (d) – (f), (g) – (i) (instead follow 5.2D) and (j)- (l) and except for the words “or (d), (e), and (f) of this section depending on the amount of hazardous waste on site in that calendar month”, in §262.34(m)”.
28. In 264.73(b) add a sub-paragraph; “(20) For storage facilities, a description and the quantity of each waste shipped, cross-referenced by manifest document number”.
29. In 264.73(b)(3) delete “264.1034, 264.1063, 264.1083,”
30. In 264.73(b)(6) delete “264.1034(c)-264.1034(f), 264.1035, 264.1063(d)-264.1063(i), 264.1064, and 264.1082 through 264.1090”.
31. In 264.74(b) add after the word “period” “(of at least three years)”.
32. Delete 264.77(c) and replace with “(c) As otherwise required by subparts F and K through N of this part.”
33. In 264.90(b) replace “§ 264.1” with “those portions of § 264.1 adopted by the Department” and delete sub-paragraphs (2), and (5) (since these exemptions do not apply in Rhode Island).
34. In 264.90(a)(2) add at the end of this paragraph, “A facility that is not a regulated unit shall comply with its approved groundwater monitoring plan, unless the Department does not require the facility to do groundwater monitoring. ”
35. In 264.114, after the word “chapter”, add “and in accordance with Rule 5.0 – 5.12 of these Rules and Regulations”.
36. In 264.143(a) delete sub-paragraphs (3) through (5) and replace with “(3) For new facilities, the full amount of the closure cost estimate must be deposited into the closure trust fund when the fund is established. For existing facilities, the full amount of the closure cost estimate must be deposited into the closure trust fund by July 18, 1985.”. In sub-paragraph (6), delete “After the pay-in period is completed,” .
37. In 264.145(a) delete sub-paragraphs (3) through (5) and replace with “(3) For new facilities, the full amount of the post closure cost estimate must be deposited into the post closure trust fund when the fund is established. For existing facilities, the full amount of the post closure cost estimate must be deposited into the post closure trust fund by July 18, 1985.”. In sub-paragraph (6) delete “After the pay-in period is completed,” .
38. In 264.143(h) and 264.145(h) where the sentence "If the facilities covered by the mechanism are in more than one Region, identical evidence of financial assurance must be submitted to and maintained with the Regional Administrator of all such Regions." appears, replace it with the sentence "If the facilities covered by the mechanism are in more than one State, identical evidence of financial assurance 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."
39. In 264.151 make the following substitutions, consistent with the substitution rules stated in the definitions of Administrator/Regional Administrator, EPA and RCRA in Rule 3.0 (Definitions) of these *Rhode Island Hazardous Waste Regulations*:

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

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

²Except when referring to securities issued by the U. S. Government.

³Except wherever 40 CFR 264.151 requires that owners and operators notify several Regional Administrators of their financial obligations, the owner or operator shall notify both the Director and all Regional Administrators of Regions which are affected by the owner or operator's financial assurance mechanisms.

40. In 264.173 add a sub-paragraph “(c) The side of all hazardous waste containers of 119 gallons or less must be labeled with the following information:

- (1) The words “hazardous waste”;
- (2) The EPA or RI waste code;
- (3) The generator’s name and address; and
- (4) A unique ID number (which has the ability to link to the manifest number).

41. Revise 264.174 to read “ At least weekly, the owner or operator must inspect areas where containers are stored. The owner or operator must look for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors. “

42. In 264.175, 264.178, 264.193, and 264.351, after the word “chapter”, add “and in accordance with Rule 5 and Rule 6 of these Rules and Regulations.

43. In 264.176 replace the word “ignitable” with “flammable” in all instances.

44. In 40 CFR 264.191(a) and 264.191(c), compliance in Rhode Island relative to the January 12, 1988 and July 14, 1986 dates, respectively, applies only to a tank system owned or operated by a federal small quantity generator or any tank system (aboveground, onground, inground, or underground) that cannot be entered for inspection. Relative to a tank system that is not owned or operated by a federal small

quantity generator and which is a tank system (aboveground, onground, inground, or underground) that can be entered for inspection, "January 12, 1988" and "July 14, 1986" shall be replaced with "December 1, 1992", wherever those dates occur in 40 CFR 264.191(a), and 264.191(c), respectively.

45. Delete 264.195(e)
46. Add as the introduction to 264.301, [prior to paragraph (a)] the sentence "Landfills shall be designated as Class I, Class II, or Class III."
47. Add at the end of 264.301(c)(1)(i)(B) the statement "The bottom liner shall be installed with a minimum two percent slope and lead to collection sumps at all low points".
48. Delete 264.301(l) requirements for Alabama landfills and replace with "(l) There shall be a minimum distance of 500 feet between any active portion of the facility and any surface body of water and any wetland."
49. Add as 264.301(m) "The boundaries of all active portions of the landfill shall be at least 500 feet from any private water supply or livestock water supply."
50. Add as 264.301(n) "Landfill erosion, landslides, and slumping shall be minimized."
51. Add as 264.301(o) "The landfill shall contain a gas collection and venting system to prevent the lateral movement of gases generated within the landfill and to prevent the accumulation of these gases within confined structures on or adjacent to the landfill area."
52. Add as 264.301(p):

"Class I Landfills shall be located only in "Till" areas as identified on the Ground Water Maps prepared by the United States Geological Survey and shall include in the design the following:

 - A two-liner system installed on the bottom and all sides of any disposal area consisting of two membrane liners.
 - 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.
 - A minimum of six inches of sand immediately overlaying and under the membrane liner.
 - Membrane liners, which meet the following requirements:
 - Be of adequate strength and thickness to ensure mechanical integrity and have a minimum thickness of 30 mils.
 - Be resistant to attack from soil bacteria and fungi.
 - Has ample weather resistance to withstand the stress of extreme heat, freezing and thawing.
 - Has adequate tensile strength to elongate sufficiently and withstand the stress of installation and/or use of machinery and equipment.
 - Be of uniform thickness, free from thin spots, cracks, tears, blisters and foreign particles.
 - Be placed on a stable base.
 - Has a permeability less than or equal to 1×10^{-12} cm/sec or its equivalent.

- Be seamed in a manner that does not adversely affect any property of the membrane.”
53. Add as 264.301(q) “Class II Landfills may be located in either "Till" areas or "Outwash" areas as identified on the Ground Water Maps prepared by the United States Geological Survey and shall be of the same design as Class I Landfills.”
 54. Add as 264.301(r) “Class III Landfills may be located in either "Till" areas or "Outwash" areas as identified on the Ground Water Maps prepared by the United States Geological Survey. Class III Landfills located in "Outwash" areas and Class III Landfills located in "Till" areas shall meet the requirements of 40 CFR 264.301(a) through (o) and 264 Subpart F.”
 55. Add as 264.301(s) “The Director may approve a design that affords protection equivalent to any of the requirements for classes of landfills in 264.301(p)–(r), provided that all minimum federal requirements are retained. Prior to approving an equivalent design, the Director shall prepare a written opinion 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 40 CFR 270.10(c) and 40 CFR 124.10(b).”
 56. Add as 264.301(t) “Class I Landfills may not accept "Type 6 - Extremely Hazardous Waste", "Type 2A - Highly Reactive Waste", and "Type 3A - Highly Flammable Waste". ”
 57. Add as 264.301(u) “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". ”
 58. Add as 264.301(v) “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". ”
 59. In 264.313 delete “, unless 264.17(b) is complied with”
 60. Delete 264 Subparts AA, BB, and CC. Also delete 264.179, 264.200, and 264.232, in 264.340(b)(2) delete “, BB and CC,.” and in 264.601 delete “and subparts AA through CC.” Rhode Island is not authorized to administer the referenced regulations under 40 CFR part 264, subparts AA, BB and CC (RCRA air emissions regulations). Rather, the EPA directly administers the subparts AA, BB and CC regulations in Rhode Island.
 61. Delete 264.149 and 264.150 (not applicable in authorized States).
 62. Delete 264 Appendix VI (not applicable in Rhode Island due to absence of such earthquake fault lines).
 63. Delete 264.340(b)(1). Also in 264.601 delete “,part 63 subpart EEE and part 146.” These exemptions do not apply in Rhode Island.
 64. Revise 264.1101(c)(4) to read “Inspect and record in the facility’s operating record, at least once every seven days.

9.0-12.0 RESERVED

13.0 UNIVERSAL WASTE

13.1 Requirements for Universal Waste: The wastes listed in this Rule 13 are exempt from regulation under 40 CFR 262 through 270 except as specified in 40 CFR Part 273 and this Rule 13, and therefore are not fully regulated as hazardous waste provided that they are handled in full compliance with the requirements of this Rule 13. The wastes listed in this Rule 13 are subject to regulation under 40 CFR Part 273 and this Rule 13:

- A. Batteries as described in 40 CFR 273.2
- B. Pesticides as described in 40 CFR 273.3
- C. Mercury-containing equipment as described in 40 CFR 273.4.
- D. Lamps as described in 40 CFR 273.5.
- E. Used electronics as described in Rule 13.2 of these regulations,
- F. Silver- containing photo fixing solutions as described in Rule 13.3 of these regulations

13.2 Applicability –Used electronics: The requirements of 40 CFR Part 273 and this Rule 13 apply to persons managing used electronics, as defined in Rule 3.0 of these Rules, which have become wastes, as defined in Rule 3.0 of these Rules. Used Electronics wastes must be managed as universal waste (or hazardous waste) whether or not they exhibit a hazardous characteristic. RIGL 23-24.10, “Electronic Waste Prevention, Reuse and Recycling Act”, bans the disposal of various types of used electronic devices at solid waste facilities.

- A. A used electronic device becomes a waste on the date it is discarded. An unused electronic device becomes a waste on the date the handler decides to discard it.
- B. The requirements of 40 CFR Part 273 do not apply to persons managing the following used electronics:
Used electronics that are not yet wastes under Rule 3 and 40 CFR 261. Rule 13.2(A) describes when used electronics become wastes.

13.3 Applicability – Silver-containing photo fixing solutions: The requirements of 40 CFR 273 and this Rule 13 apply to persons managing silver-containing photo fixing solutions, as defined in Rule 3.0 of these Rules, which have become wastes, as defined in Rule 3.0 of these Rules, when the wastes are hazardous wastes.

- A. A Waste silver-containing photo fixing solution is a hazardous waste if it exhibits one or more of the characteristics identified in 40 CFR part 261, Subpart C. A silver-containing photo fixing solution becomes a waste on the date it is discarded. An unused silver-containing photo fixing solution becomes a waste on the date the handler decides to discard it.
- B. The requirements of 40 CFR Part 273 do not apply to persons managing the following silver-containing photo fixing solutions:

1. Silver-containing photo fixing solutions that are not yet wastes under 40 CFR 261. Rule 13.3(A) describes when silver-containing photo fixing solutions become wastes.
 2. Silver-containing photo fixing solutions that are not hazardous waste. Rule 13.3(A) describes when silver containing photo fixing solutions are hazardous waste.
- C. Other wastes from photo processing operations that exhibit one or more of the characteristics of hazardous waste, including wastes from system cleaning (acid regenerants, system cleaners, and photographic activators (hazardous waste code D002), dichromate based cleaners (hazardous waste code D007), and off-specification chemicals (hazardous waste code D001 and D002), shall be managed as hazardous waste (not universal waste).

13.4 Requirements for Universal Waste Handlers and Transporters: The following applies to universal waste handlers and universal waste transporters, relative to the universal wastes listed in Rule 13.1:

- A. The requirements of 40 CFR 264 and 40 CFR 265 do not apply, when handling these wastes.
- B. These handlers and transporters are exempt from 40 CFR 268.7 and 268.50, for these hazardous wastes.
- C. These handlers and transporters are not required to obtain a RCRA permit in order to manage these wastes.
- D. These handlers and transporters are subject to regulation under 40 CFR 273 and per the requirements of this section (Rule 13).

13.5 Standards For Universal Waste Management: 40 CFR Part 273 is incorporated by reference in its entirety, except 273.3(b)(1) relative to disposal of recalled or unused pesticides (since 40 CFR 262.70, the farmer exemption, is not recognized by the Department), and as otherwise provided in these Rules. (See also definition of "EPA" for portions of the CFR where "EPA" is replaced by "Department").

- A. **40 CFR 273.1 – Scope.** The provisions are incorporated by reference with the following changes to 273.1(a):
 1. add “(5) Used electronics as defined in these Rules.”
 2. add “(6) silver-containing photo fixing solutions as defined in these Rules.”
- B. **40 CFR 273.2 Applicability-Batteries.** The provisions are incorporated by reference with the following change:

Add “(d) Exceptions to 40 CFR273.2(b)(3). Waste nickel-cadmium, mercury-oxide, and lead acid dry cell batteries must be managed as universal waste (or hazardous waste) whether or not they exhibit a hazardous characteristic. The disposal of these wastes at solid waste facilities is prohibited, per the solid waste disposal ban in RIGL 23-60.1, “Dry Cell Battery Control”.

C. 40 CFR 273.4 Applicability- Mercury-Containing Equipment. The provisions are incorporated by reference with the following changes:

1. Delete 40 CFR 273.4(b)(2).
2. Add 40 CFR 273.4(d) to read as follows: “Waste Mercury-containing equipment must be managed as universal waste (or hazardous waste) whether or not it exhibits a hazardous characteristic. The disposal of these wastes at solid waste facilities is prohibited, per RIGL23-24.9, “Mercury Reduction and Education Act”.

D. 40 CFR 273.5 Applicability- Lamps. The provisions are incorporated by reference with the following changes:

1. Delete 40 CFR 273.5(b)(2).
2. Add 40 CFR 273.5(d) to read as follows: “Waste lamps must be managed as universal waste (or hazardous waste) whether or not they exhibit a hazardous characteristic. The disposal of these wastes at solid waste facilities is prohibited, except as provided in Rule 13.5(E)(2) (household exemption), per the solid waste disposal ban on lamps in RIGL 23-24.9 “Mercury Reduction and Education Act”.
3. Lamp ballasts containing PCB's must be managed as a hazardous waste (See definition of PCB Waste- R007 in Section 3) in accordance with Rules 3-8 of these Regulations.

E. 40 CFR 273.8– Applicability–household and conditionally exempt small quantity generator waste.

40 CFR 273.8 is not incorporated by reference. Instead, the following provisions shall apply:

1. Persons who are household hazardous waste collection facilities, as described in Rule 5.0, and who handle wastes of the types described in the “Universal Waste” definition in Rule 3.0, shall either handle those wastes in compliance with all requirements applicable to hazardous waste generators as provided in Rule 5.0 or shall handle those wastes as universal wastes per the requirements of this part.
2. Persons who reside in single family or multiple family residences and who generate household waste as defined in 40 CFR 261.4(b)(1) and who:
 - (a) generate and dispose of non-business waste consisting of waste batteries (except for waste nickel-cadmium, mercuric oxide, and lead acid dry cell batteries), waste pesticides, waste lamps, and/or waste silver-containing photo fixing solutions as described in the “Universal Waste” definition in Rule 3.0 shall either handle those wastes as non-hazardous solid wastes or as universal wastes per the requirements of this part.

- (b) generate and dispose of waste consisting of certain dry cell batteries (i.e., waste nickel-cadmium, mercuric oxide, and lead acid dry cell batteries), used electronics, and/or waste mercury-containing equipment as described in the “Universal Waste” definition in Rule 3.0 shall either dispose of these wastes as universal waste per the requirements of this part or as household hazardous waste (if a household hazardous waste collection program for these types of waste is available in the State). This satisfies the solid waste disposal ban in RIGL 23-60.1, 23-24.10, and 23-24.9. Any wastes of these types generated as part of a business located in a household must be managed as universal waste or hazardous waste (not household hazardous waste) and therefore the household hazardous waste collection program does not apply to such business wastes.
- 3. Persons who are federal conditionally exempt small quantity generators as defined in 40 CFR 261.5 and who:
 - (a) generate waste batteries (except for waste nickel-cadmium, mercuric oxide, and lead acid dry cell batteries), waste pesticides, and/or silver- containing photo fixing solutions as described in the “Universal Waste” definition in Rule 3.0 shall either handle those wastes in compliance with the requirements of 40 CFR 261.5 or shall handle those wastes as universal wastes per the requirements of this part.
 - (b) generate and dispose of certain waste dry cell batteries (i.e., waste nickel-cadmium, mercuric oxide, or lead acid dry cell batteries), used electronics, waste mercury- containing equipment and/or waste lamps as defined in the “Universal Waste” definition in Rule 3.0 shall either dispose of these wastes as hazardous waste or universal waste per the requirements of this part. This satisfies the solid waste disposal ban in RIGL 23-60.1, 23-24.10, and 23-24.9.
- 4. Persons who commingle regulated universal wastes with wastes of the types described in the “Universal Waste” definition in Rule 3.0 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.

F. 40 CFR 273.9– Definitions. The provisions are incorporated by reference with the following changes:

- 1. Replace the definition of “Large Quantity Handler of Universal Waste” with the Rule 3.0 definition of “Large Quantity Handler of Universal Waste”.
- 2. Replace the definition of “Small Quantity Handler of Universal Waste” with the Rule 3.0 definition of “Small Quantity Handler of Universal Waste”.
- 3. Add to the definition of “Universal Waste” “(5) Used electronics as defined in these Rules.”

4. Add to the definition of “Universal Waste” “(6) Silver-containing photo fixing solutions as defined in these Rules.”
5. In the definition of “Destination facility” add the following after the last sentence: “A facility that engages in the disassembly or demanufacturing of used electronics: (1) for the purpose of marketing, reselling, reusing or recycling the components of a used electronic device; (2) without treating the device or any component thereof; and (3) without breaking the cathode ray tube, if any, in any such device, shall be considered a small quantity handler of universal waste or a large quantity handler of universal waste, as appropriate and shall not be considered a destination facility. A facility that shreds, crushes, heats, or otherwise treats a used electronic device or an component thereof, or that breaks the cathode ray tube in any used electronic device, shall be considered a destination facility.”

G. 40 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.” For the purposes of these regulations, physical breakage of one item or less than 10% of the total items shall be considered insignificant.

H. 40 CFR 273.13 - Waste Management. The provisions are incorporated by reference with the following changes:

1. add “(e) *Used electronics.* A small quantity handler of universal waste must manage used electronics in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
 - (1) Store all used electronics inside a building with a roof and four walls or in a portable storage unit that is completely enclosed and weatherproof, or in the cargo-carrying portion of a truck, such as a trailer. Storage shall be in a manner that prevents used electronics from being exposed to the environment and ensures that all used electronics are handled, stored and transported in a manner that maintains the reuse or recyclability of any such used electronic or component thereof.
 - (2) A small quantity handler of universal waste must contain any cathode ray tube(s) from a used electronic device and other used electronics that shows evidence of breakage, leakage, spillage, or damage that could cause the release of glass particles or other hazardous constituents under reasonable foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the cathode ray tube(s) and other used electronics, and must lack evidence of breakage,

leakage, spillage, or damage that could cause the release of glass particles or other hazardous constituents under reasonably foreseeable conditions. Any released glass particles, other constituents, and clean-up residues resulting from the breakage, leakage, spillage, or damage of cathode ray tube(s) or used electronics must be managed as universal waste or hazardous waste, whether or not they exhibit a hazardous characteristic. The disposal of these wastes at solid waste facilities is prohibited, per the solid waste disposal ban in RIGL 23-24.10, "Electronic Waste Prevention, Reuse and Recycling Act".

- (3) A small quantity handler of universal waste may conduct the following activities:
 - (a) Sorting display devices/cathode ray tubes or other used electronics by type.
 - (b) Managing different types of display devices/cathode ray tubes or other used electronics in the same container.
 - (c) Testing display devices/cathode ray tubes or other used electronics to determine if they are capable of being returned to service.
 - (d) Removing cathode ray tubes or other used electronics from display device casings.
 - (e) Disassembling used electronics to separate batteries, circuit boards, or other components for the purpose of marketing, reselling, reusing or recycling such components, provided no treatment is occurring.
 - (f) A small quantity handler of universal waste shall not conduct any of the following activities:
 - (i) Breaking of cathode ray tubes in used electronic devices.
 - (ii) Shredding, crushing, heating, or otherwise treating used electronics or any component thereof.
 - (g) A small quantity handler of universal waste may disassemble used electronics provided that the handler:
 - (i) Ensures that used electronics are disassembled in a manner designed to prevent the release of any universal waste or component of universal waste to the environment;
 - (ii) Ensures that the disassembly operations are performed safely by developing and implementing a written procedure detailing how to safely disassemble each used electronic device managed at the facility. This procedure must include: the type of equipment to be used to disassemble the used electronic device safely, operation and maintenance of equipment, segregation of incompatible wastes and proper waste management practices;
 - (iii) Ensures that a spill clean-up kit is readily available to immediately clean up spills or leaks of the contents of the used electronic device which may occur during disassembly operations;
 - (iv) Segregates and transfers the disassembled electronic components to containers that meet the requirements of Rule 13. 5E1(e)(2) above.

- (v) Ensures that employees are thoroughly familiar with the procedures for disassembling used electronics, proper waste handling, and emergency procedures relevant to their responsibilities during normal facility operations and emergencies and
 - (vi) Maintains a system to ensure compliance with the written disassembling and management procedures.
- 2. Add “(f) *Universal Waste Silver-containing photo fixing solutions.* A small quantity handler of universal waste must manage universal waste silver-containing photo fixing solutions in a way that prevents releases of any universal waste or component of universal waste to the environment. The universal waste silver-containing photo fixing solutions must be contained in one or more of the following:
 - (1) A container that remains closed, structurally sound, compatible with the silver-containing photo fixing solutions, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or
 - (2) A container that does not meet the requirements of paragraph (f)(1) of this Section, provided that the unacceptable container is overpacked in a container that does meet the requirements of paragraph (f)(1) of this Section; or
 - (3) A tank that meets the requirements of 40 CFR part 265 subpart J, except for 40 CFR 265.197(c), 265.200, and 265.201; or
 - (4) A transport vehicle or vessel that is closed, structurally sound, compatible with the silver-containing photo fixing solutions, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.”
- 3. Delete 40 CFR 273.13(c)(4)(iii) and replace with “ (iii) if the mercury, residues, and/or other solid waste is not a characteristic hazardous waste, such waste must still be handled as universal waste (or hazardous waste). The disposal of these wastes at solid waste facilities is prohibited, per the solid waste disposal ban in RIGL 23-24.9 “Mercury Reduction and Education Act”.”
- I. **40 CFR 273.14 – Labeling/markings.** The provisions are incorporated by reference with the following changes:
 - 1. add “(f) **Used electronics devices** or containers of used electronic devices must be clearly labeled (or clearly marked) as follows:
 - (1) **Cathode ray tubes** must be labeled with one of the following phrases: “Universal Waste- Cathode Ray Tube(s)”, “Waste Cathode Ray Tube(s)” or “Used Cathode Ray Tube(s)”.
 - (2) **Other used electronics devices** (that are not cathode ray tubes) must be labeled with one of the following phrases: “Universal Waste- “Used Electronic Devices not containing CRTs”.

2. add “(g) A container, (or multiple container package unit), tank, transport vehicle or vessel in which used universal waste **silver-containing photo fixing solutions** as described in Rule 13.3 are contained must be labeled or marked clearly with either of the phrases “Universal Waste- Silver-Containing Photo Fixing Solution(s)” or “Waste-Silver-Containing Photo Fixing Solution(s)”.”
- J. **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".
- K. **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 . For the purposes of these regulations, physical breakage of one item or less than 10% of the total items shall be considered insignificant.”
- L. **CFR 273.32 – Notification.** The provisions are incorporated by reference with the following changes:
1. In 273.32(a)(1), after “ 5000 kilogram storage limit” add “(or the 20,000 kilogram storage limit for used electronics)”
 2. Revise 273.32(b)((4) to read “A list of all types of universal waste managed by the handler (e.g. batteries, pesticides, mercury-containing equipment, lamps, used electronics, and silver-containing photo fixing solutions);
 3. In 273.32(b)(5), after “5000 kg of universal waste” add “(or 20,000 kg of used electronics)”
- M. **CFR 273.33 – Waste Management.** The provisions are incorporated by reference with the following changes:
1. add “(e) *Used electronics.* A large quantity handler of universal waste must manage used electronics in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
 - (1) Store all used electronics inside a building with a roof and four walls or in a portable storage unit that is completely enclosed and weatherproof, or in the cargo-carrying portion of a truck, such as a trailer. Storage shall be in a manner that prevents used

electronics from being exposed to the environment and ensures that all used electronics are handled, stored and transported in a manner that maintains the reuse or recyclability of any such used electronic or component thereof.

- (2) A large quantity handler of universal waste must contain any cathode ray tube(s) from a used electronic device and other used electronics that shows evidence of breakage, leakage, spillage, or damage that could cause the release of glass particles or other hazardous constituents under reasonable foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the cathode ray tube(s) and other used electronics, and must lack evidence of breakage, leakage, spillage, or damage that could cause the release of glass particles or other hazardous constituents under reasonably foreseeable conditions. Any released glass particles, other constituents, and clean-up residues resulting from the breakage, leakage, spillage, or damage of cathode ray tube(s) or used electronics must be managed as universal waste (or hazardous waste), whether or not they exhibit a hazardous characteristic. The disposal of these wastes at solid waste facilities is prohibited, per the solid waste disposal ban in RIGL 23-24.10, "Electronic Waste Prevention, Reuse and Recycling Act".
- (3) A large quantity handler of universal waste may conduct the following activities:
 - (i) Sorting display devices/cathode ray tubes or other used electronics by type.
 - (ii) Managing different types of display devices/cathode ray tubes or other used electronics in the same container.
 - (iii) Testing display devices/cathode ray tubes or other used electronics to determine if they are capable of being returned to service.
 - (iv) Removing cathode ray tubes or other used electronics from display device casings.
 - (v) Disassembling used electronics to separate batteries, circuit boards, or other components for the purpose of marketing, reselling, reusing or recycling such components, provided no treatment is occurring.
- (4) A large quantity handler of universal waste shall not conduct any of the following activities:
 - (i) Breaking of cathode ray tubes in used electronic devices.
 - (ii) Shredding, crushing, heating, or otherwise treating used electronics or any component thereof.
- (5) A large quantity handler of universal waste may disassemble used electronics provided that the handler:
 - (i) Ensures that used electronics are disassembled in a manner designed to prevent the release of any universal waste or component of universal waste to the environment;
 - (ii) Ensures that the disassembly operations are performed safely by developing and implementing a written procedure detailing how to safely disassemble each used electronic device managed at the facility. This procedure must include: the type of equipment to be used to disassemble the used electronic device safely, operation and maintenance of equipment, segregation of incompatible wastes and proper waste management practices;

- (iii) Ensures that a spill clean-up kit is readily available to immediately clean up spills or leaks of the contents of the used electronic device which may occur during disassembly operations;
 - (iv) Segregates and transfers the disassembled electronic components to containers that meet the requirements of Rule 13. 5M1(e)(2) above.
 - (v) Ensures that employees are thoroughly familiar with the procedures for disassembling used electronics, proper waste handling, and emergency procedures relevant to their responsibilities during normal facility operations and emergencies and
 - (vi) Maintains a system to ensure compliance with the written disassembling and management procedures.
2. Add “(f) *Universal Waste Silver-containing photo fixing solutions.* A large quantity handler of universal waste must manage universal waste silver-containing photo fixing solutions in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste silver-containing photo fixing solutions must be contained in one or more of the following:
- (1) A container that remains closed, structurally sound compatible with the silver-containing photo fixing solutions, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or
 - (2) A container that does not meet the requirements of paragraph (f)(1) of this Section, provided that the unacceptable container is overpacked in a container that does meet the requirements of paragraph (f)(1) of this Section; or
 - (3) A tank that meets the requirements of 40 CFR part 265 subpart j, except for 40 CFR 265.197(c), 265.200, and 265.201; or
 - (4) A transport vehicle or vessel that is closed, structurally sound, compatible with the silver-containing photo fixing solutions, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
3. Delete 40 CFR 273.33(c)(4)(iii) and replace with “ (iii) If the mercury, residues, and/or other solid waste is not a characteristic hazardous waste, such waste must still be handled as universal waste (or hazardous waste) and not as solid waste. The disposal of these wastes at solid waste facilities is prohibited, per the solid waste disposal ban in RIGL 23-24.9 “Mercury Reduction and Education Act”. ”

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

1. add “(f) Used electronics devices or containers of used electronic devices must be clearly labeled (or clearly marked) as follows:
 - (1) **Cathode ray tubes** must be labeled with one of the following phrases: “Universal Waste- Cathode Ray Tube(s)”, “Waste Cathode Ray Tube(s)” or “Used Cathode Ray Tube(s)”.

(2) **Other used electronics devices** (that are not cathode ray tubes) must be labeled with one of the following phrases: “Universal Waste- “Used Electronic Devices not containing CRTs”.

2. add “(g) A container, (or multiple container package unit), tank, transport vehicle or vessel in which used universal waste silver-containing photo fixing solutions as described in Rule 13.3 are contained must be labeled or marked clearly with the words “Universal Waste- Silver-Containing Photo Fixing Solution(s)” or “Waste-Silver-Containing Photo Fixing Solution(s);”

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

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

P. **40 CFR 273.51 – Prohibitions.** The provisions are incorporated by reference with the following changes:

1. add “(c) Prohibited from crushing or intentionally breaking universal waste.”
2. add “(d) Prohibited from managing a significant number of broken items of universal waste of any given type in a transportation unit as universal waste. An insignificant number of unintentionally broken waste in a transportation unit may be managed as universal waste, provided that they are immediately managed to prevent releases of any universal waste or component of universal waste to the environment, per the requirements of these universal waste regulations. ” For the purposes of these regulations, physical breakage of one item or less than 10% of the total items shall be considered insignificant.

Q. **40 CFR 273.60 – Applicability.** The provisions are incorporated by reference with the following change:

In paragraph (a) after the phrase “of this chapter,” add “to all applicable requirements of Rules 7 and 8,”

R. **40 CFR 273.61 - Off-site shipments.** The provisions are incorporated by reference with the following change:

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

S. **40 CFR 273.80 – Petitions to Include Other Wastes, Under 40 CFR Part 273; General.** The provisions are incorporated by reference with the following changes: In 273.80(b) and 273.80(c), delete “Administrator” and replace with “Director”.

14.0 MIXED WASTE

These rules apply to Mixed Waste as defined in Rule 3.0.

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".

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.

15.0 USED OIL MANAGEMENT STANDARDS.

15.1 Purpose and Applicability

This Rule provides an alternative to managing used oil as hazardous waste under Rules 5-8; 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 3.0, that is to be reused, reclaimed, processed, re-refined or burned for energy recovery is subject to the requirements of Rule 15.0. This Rule does not apply to used oil, or material derived from used oil, that is disposed of, sent for disposal or used in a manner constituting disposal, which must be evaluated to determine if the used oil is subject to regulation as a hazardous waste in accordance with Rule 5.8 (Determination). Used oil that does not meet the definition of a hazardous waste and is not managed in accordance with Rule 15.0 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 3.0 or in 40 CFR 261 Subpart C is subject to Rule 15.0 except that the used oil may be excluded from burning for energy recovery pursuant to Rule 3 and Rule 15.3E.
- B. Mixtures of used oil and hazardous wastes that are Federally listed in 40 CFR 261 Subpart D shall be managed as hazardous waste;
 - 1. Used oil that contains greater than 1,000 ppm of total halogens is presumed to have been mixed with one or more halogenated hazardous wastes listed in 40 CFR 261 Subpart D. Persons may rebut the presumption that the used oil has been mixed with the hazardous waste designated in 40 CFR 261.31 (a) as F001 or F002 by demonstrating through analysis that none of the following halogenated hazardous waste constituents are present in the used oil at a concentration of greater than 100 parts per million: tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, chlorinated fluorocarbons, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, trichlorofluoromethane or 1,1,2-trichloroethane. To rebut the

presumption that the used oil has been mixed with any hazardous waste, other than F001 or F002, listed in 40 CFR 261, Subpart D, a person shall demonstrate that the used oil does not contain hazardous waste by having the used oil analyzed in accordance with Rule 5.8 and demonstrating that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII of 40 CFR 261. Unless and until such person has rebutted the presumption, a used oil containing more than 1,000 parts per million total halogens shall be considered a hazardous waste and shall be managed as such.

2. The rebuttable presumption set forth in Rule 15.1(B)(1) does not apply to metal working oils/fluids that contain chlorinated paraffins that are reclaimed/processed under a tolling arrangement as defined in Rule 15.4. Metal working oils/fluids that are recycled in any other manner are subject to the rebuttable presumption set forth in Rule 15.1(B)(1).
 3. Used oil contaminated with Chlorofluorocarbons (CFCs) removed from refrigeration units that are destined for reclamation is not subject to the rebuttable presumption set forth in 15.1(B)(1) above. The rebuttable presumption does apply to used oil contaminated with CFCs from sources other than refrigeration units.
- C. Mixtures of used oil and hazardous waste where the hazardous waste mixed with the used oil is hazardous only because it exhibits the characteristic of flammability contained in Rule 3.0 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 3.0.

Mixtures of used oil and flammable hazardous waste that do not meet the criteria listed in Rule 15.1(C)(1) and (2) are not subject to this Rule and shall be managed in accordance with Rule 5.8. 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 5.8.

- 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 5.8 and may be subject to additional parts of these Rules if the materials meet the definition of Hazardous Waste. Materials contaminated with used oil that are burned for energy recovery in accordance with Rule 15.3 are regulated under this Rule. Mixtures of used oil and any petroleum based products shall be managed in accordance with Rule 15.0.

E. Used automotive engine oil filters that are notterne-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 15.0 or Rules 1.0 through and including 8.0 and 17.0 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 15.0 or Rules 1.0 through and including 8.0 and 17.0 if the generator processes the filters in accordance with Rule 15.1(E), sends the processed filters out for scrap metal reclamation and documents the recycling of the filters.

All free liquids that are collected as a result of any draining activity shall be properly managed in accordance with Rule 15.0. 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 15.0.

F. Materials derived or otherwise reclaimed from used oil that are used in place of new product and are not burned for energy recovery or used in a manner constituting disposal are not used oil, are not hazardous waste and are not solid waste. Materials derived from used oil that are burned for energy recovery are subject to the requirements of Rule 15.3. Materials derived from used oil that are used in a manner constituting disposal are subject to the requirements of Rule 5.8.

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 15.0.

H. Used oil produced on vessels from shipboard operations is not subject to Rule 15.0 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 15.0. Used oil containing PCBs at levels of

50 ppm or greater are hazardous wastes as defined in Rule 3.0 and shall be managed in accordance with Rules 1.0-8.0 and 17.0.

- J. Household used oil generators are exempt from the provisions of Rule 15.0. 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).

15.2 Prohibitions

The following uses or activities are prohibited:

- A. The mixing of hazardous wastes with used oil, except as provided for in Rule 15.1(C);
- B. The use of any used oil for road oiling or dust suppression;
- C. Burning off-specification used oil as defined in Rule 15.3, unless the used oil is generated 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 15.0; unless the used oil is being managed as a hazardous waste in accordance with the requirements of Rules 5.0 and 6.0.

15.3 Burning Used Oil for Energy Recovery

This Rule applies to owners and operators of used oil burning equipment as defined in Rule 3.0. 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 15.3.

- A. Used oil burners that utilize used oil burning equipment with heat input capacity of less than or equal to 500,000 BTU/hr to burn either specification used oil or off-specification used oil shall comply with the following requirements:
 - 1. The used oil burner only burns used oil that is generated 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 generated onsite 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 15.0 of the Hazardous Waste Management Regulations. Used oil burners subject to the requirements of Rule 15.3(B) shall obtain an EPA Identification Number by submitting a completed EPA Form 8700-12 to the Department.

- C. Used oil burners that utilize used oil burning equipment with heat inputs of greater than 500,000 BTUs/hr but less than 1,000,000 BTUs/hr to burn used oil shall comply with the following requirements:
1. The used oil burner only burns used oil that meets the definition of specification used oil contained in Rule 15.3;
 2. Prior to burning, the used oil burner has the used oil analyzed by a laboratory, or obtains certified copies of analytical test results conducted by a laboratory from the used oil generator, used oil transporter, or used oil processor/re-refiner to verify that it meets the definition of specification used oil;
 3. The used oil burner shall maintain records of analytical testing at the facility where the burning activity occurs for a period of at least three years and shall provide such records to the DEM upon request;
 4. The used oil burner may aggregate off-specification used oil generated onsite 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 15.0 of the Hazardous Waste Management Regulations. Used oil burners subject to the requirements of Rule 15.3(C) shall obtain an EPA Identification Number by submitting a completed EPA Form 8700-12 to the Department.
- D. Used oil burners that utilize used oil burning equipment with heat inputs of greater than or equal to 1,000,000 BTUs/hr to burn used oil shall comply with the following requirements:
1. The used oil burner only burns used oil that meets the definition of specification used oil contained in these regulations;
 2. Prior to burning the used oil burner has the used oil analyzed by a laboratory, or obtains certified copies of analytical test results conducted by a laboratory from the generator, transporter or processor, to verify that it meets the definition of specification used oil;
 3. The used oil burner shall maintain records of analytical testing at the facility where the burning activity occurs for a period of at least three years and shall provide such records to the Department upon request;
 4. The used oil burner may aggregate off-specification used oil generated onsite 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 15.3(D) shall obtain an EPA Identification Number by submitting a completed EPA Form 8700-12 to the Department.
- E. Specification used oil shall meet the limits established in Table 2 below. Used oil burners, used oil generators, used oil transporters, used oil collection centers, used oil aggregation points, used oil processor/re-refiners and used oil marketers shall conduct the analytical test methods listed in Table 2 below in order to demonstrate that their used oil meets the definition of specification used oil. Alternate test methods may be used provided the person, prior to testing, documents in writing that the test method to be used is approved by the EPA.

<u>Table 2</u>		
<u>A</u>	<u>B</u>	<u>C</u>
Constituent/property	Allowable levels (using Column C test methods)	Test Methods
Arsenic	5 ppm maximum	EPA Methods 7060A, 7061A, 7062, 6010B or 6020
Cadmium	2 ppm maximum	EPA Methods 7130, 7131A, 6010B, or 6020
Chromium	10 ppm maximum	EPA Methods 7190, 7191, 6010B, or 6020
Lead	100 ppm maximum	EPA Methods 7420, 7421, 6010B, or 6020
Polychlorinated biphenyls (PCBs)	<2 ppm	ASTM Method 608/8081 (see section 15.3(E)(3))
Flash Point	100 Degrees F minimum	EPA Methods 1010 or 1020A
Total Halogens	1,000 ppm maximum (see section 15.3(E)(1))	EPA Methods 9075, 9076, 9077, 5050/9056, 5050/9253, or ASTM Method D808-95

1. Used oil that contains greater than 1,000 ppm total halogens is presumed to be a hazardous waste and is subject to the rebuttable presumption set forth in Rule 15.1(B)(1). If the used oil burner successfully demonstrates that the halogens contained in the used oil are not listed in 40 CFR 261 Subpart D, then the allowable level of total halogens will be a maximum of 4,000 ppm.
 2. Test Methods identified in Table 2 as EPA Methods shall mean the test method as described in EPA Publication SW-846, "Test Methods for Evaluating Solid Waste-Physical/Chemical Methods, Edition III".
- F. Used oil burners are subject to any applicable sections of the *Oil Pollution Control Regulations* and the *Regulations for Underground Storage Facilities Used For Petroleum Products and Hazardous Materials* and shall also comply with all of the following storage and handling requirements:
1. Storage Units. Used oil burners shall not store used oil in units other than tanks and containers.

2. Condition of Storage Units. Containers and aboveground storage tanks used to store used oil 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 above ground storage tank that is in good condition;
 - (b) Liquid tight with no visible leaks.
3. Secondary Containment for Containers and Aboveground Tanks. Containers and aboveground tanks used to store used oil shall be equipped with a secondary containment feature that at a minimum has the following:
 - (a) An impervious floor or bottom covering the entire storage area; and
 - (b) Dikes, berms or walls capable of containing a spill or release; and
 - (c) A capacity equivalent to a minimum of 100% of the volume of used oil stored at the facility; and
 - (d) The entire system shall be impervious to used oil to prevent a release; or
 - (e) An equivalent containment system may be substituted if prior approval is obtained from the Director.
4. Storage in Underground Storage Tanks (USTs). Used oil burners that store used oil in USTs shall do so in accordance with the *Regulations for Underground Storage Facilities Used For Petroleum Products and Hazardous Materials*.
5. Exterior Storage. Used oil burners that store used oil in containers and/or aboveground tanks outdoors shall either construct the storage area with a means to prevent the accumulation of stormwater in the secondary containment device; or obtain a Stormwater Permit from the Department's Office of Water Resources prior to the construction of the storage area.
6. Labeling. Containers and aboveground storage tanks used to store used oil 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.

15.4 Used Oil Generator Standards

Used oil generators are subject to the requirements of this Rule. Household used oil generators are not subject to the requirements of this 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 5.2 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 15.8. Used oil generators may conduct the following activities provided that the used oil is not sent off-site for burning as specification used oil:
1. Filtering, cleaning or otherwise reconditioning used oil before returning it for reuse by the generator;
 2. Separating used oil from wastewater generated on-site to make the wastewater suitable for discharge in accordance with a permit issued by a local Publicly Owned Treatment Works (POTWs), the Department's *Water Quality Regulations* and Section 307 or 402 of the Clean Water Act;
 3. Using oil mist collectors to remove used oil from the in-plant air to make the air in the plant suitable for continued recirculation;
 4. Draining or otherwise removing used oil from materials containing or otherwise contaminated with used oil in order to remove the oil to the extent practicable pursuant to Rule 15.1(D); and
 5. Filtering, separating or otherwise reconditioning used oil before burning it on-site in a space heater in accordance with Rule 15.4 (F).
- F. Burning of used oil on-site. Used oil generators may burn used oil on-site in space heaters in accordance with the provisions of Rule 15.3.
- G. Off-site shipments. Except as provided in 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 15.7 and Rule 6.0.

1. Self-transportation. A used oil generator of used oil may transport used oil generated on-site without complying with the transporter requirements contained in Rule 15.7, provided that:
 - (a) The used oil is transported in a vehicle owned by the used oil generator or a vehicle owned by an employee of the used oil generator;
 - (b) Not more than 55 gallons of used oil is transported at any time;
 - (c) Containers used to transport used oil shall meet USDOT standards and be USDOT approved; and
 - (d) The used oil is transported to an aggregation point as defined in Rule 3.0.
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 that provided the used oil for transport.

- H. Service Companies. Companies that service oil-fired furnaces that heat buildings may self-transport quantities of used oil not greater than 5 gallons generated by their service activity back to their facility in accordance with the following requirements:
1. The used oil shall be placed in a closed container;
 2. The container shall be marked with the words "Used Oil";
 3. The vehicle used for the transportation shall have adequate spill control material in the vehicle at all times;
 4. The used oil shall be transferred to an appropriate storage container or tank upon return to the company's place of business;
 5. The company shall be considered to be the generator of the used oil and shall manage the used oil in accordance with all of the applicable requirements of Rule 15.0.
- I. The rebuttable presumption contained in Rule 15.1(B) applies to used oil generated and managed by used oil generators.

15.5 Used Oil Aggregation Points

- A. Applicability. This section applies to owners or operators of all used oil aggregation points as defined in Rule 3.0.
- B. Used Oil Aggregation Point requirements. Used oil generators may consolidate used oil from multiple facilities that are owned and operated by their company at used oil aggregation points for storage purposes prior to shipping off-site provided that they comply with all of the used oil generator requirements contained in Rule 15.4.
- C. Transportation. Owners and operators of used oil aggregation points may transport used oil without a permit from the point of generation to used oil aggregation points in shipments of not more than 55 gallons at one time in accordance with the requirements of Rule 15.4 (G)(1).

15.6 Used Oil Collection Centers

- A. Applicability. This section applies to owners or operators of used oil collection centers as defined in Rule 3.0.
- B. Persons who own or operate a used oil collection center shall obtain an EPA Identification Number and notify the Department of such activity and by submitting a completed Notification of Regulated Waste Activity form (EPA Form 8700-12).
- C. Used Oil Collection Center requirements. Owners and operators of used oil collection centers shall comply with all of the used oil generator requirements contained in Rule 15.4.

- D. Receiving Used Oil. Used oil collection centers may accept household used oil only. Used oil collection centers that receive used oil that does not meet the definition of a household used oil are considered used oil processor/re-refining facilities and are subject to the requirements of Rule 15.8.

15.7 Used Oil Transporter and Temporary Storage Facility Standards

- A. Applicability. This Rule shall apply to used oil transporters as defined in Rule 3.0. Used oil transporters who import or export used oil are subject to this Rule while the used oil is within the State of Rhode Island.
- B. Exceptions. The following persons and activities are not subject to the requirements of this Rule:
1. On-site transportation of used oil by a used oil generator or the owner or operator of the facility;
 2. Used oil generators who transport their used oil to aggregation points that are owned and operated by the used oil generator in shipments of not more than 55 gallons in accordance with the requirements of Rule 15.4(G)(1);
 3. Transportation of household used oil to a used oil collection center by a household used oil generator.
- C. Transporter Restriction.
1. Used oil transporters may not consolidate or aggregate loads of used oil at their facility unless they comply with the requirements of Rule 15.7(H) and may not process or re-refine used oil unless they comply with Rule 15.8;
 2. Transportation units used to transport hazardous waste shall be properly decontaminated in accordance with Rule 6.9 before transporting used oil; and
 3. Used oil transporters that direct a shipment of specification used oil to a used oil burner or first claim that the used oil meets the requirements for specification used oil shall be subject to the requirements of Rule 15.9.
- D. Permit Requirements. Transporters of used oil shall:
1. Obtain an EPA Identification Number by submitting to the Department a completed Notification of Regulated Waste Activity form (EPA form 8700-12); and
 2. Obtain a permit to transport used oil in accordance with the requirements of the Rule 6.1, unless the transporter already possesses a valid permit issued by the Department for the transportation of hazardous waste. A separate permit to transport used oil is not required if the transporter already has a permit issued by the DEM to transport hazardous waste.

- E. **Liability Insurance.** Used oil transporters shall maintain liability insurance, including the hazardous material rider (MCS 90) as specified in 49 CFR 387.7(d), sufficient to provide coverage of \$1,000,000.00 (one million dollars) per incident.
- F. **Used Oil Analysis.** Prior to transporting used oil to a used oil burner or a used oil processor/re-refiner facility or storing used oil at a used oil temporary storage facility, the used oil transporter shall determine if the used oil has a total halogen content of greater than 1,000 ppm. This determination is made by testing the used oil or applying product knowledge of the materials in use and the process that generated the used oil. In the event that the used oil has a total halogen content greater than or equal to 1,000 ppm, the used oil will be presumed to have been mixed with a halogenated hazardous waste. In accordance with Rule 15.1(B) the transporter may rebut this presumption. The rebuttable presumption does not apply to metal working oils/fluids containing used oils contaminated with chlorinated paraffins and chlorofluorocarbons that are managed in accordance with Rule 15.1(B). The used oil transporter shall maintain records of all analytical testing or determinations made based on product knowledge for a period of at least three (3) years. The used oil transporter may use analytical data or written documentation demonstrating product knowledge obtained from the used oil generator when making a determination regarding the status of a shipment of used oil.
- G. **Used Oil Transportation.**
1. A used oil transporter shall deliver shipments of used oil to only the following:
 - (a) Another used oil transporter, provided that the transfer occurs at an approved used oil temporary storage or permitted hazardous waste treatment, storage and disposal facility and the other used oil transporter has obtained a permit from the Department and an EPA Identification Number;
 - (b) If handling household used oil, a used oil collection facility that has obtained an EPA Identification Number;
 - (c) A used oil processing/re-refining facility that has obtained an EPA Identification Number; or
 - (d) A used oil burner's facility that has obtained an EPA Identification Number.
 2. **Used Oil Spills and Releases.** In the event of a spill or release of used oil the transporter shall:
 - (a) Take immediate steps to stop and contain the release;
 - (b) Immediately notify the Department's Emergency Response Program (at 222-1360 or after hours at 222-3070), the proper local authorities, and if required by 49 CFR 171.15 and/or 49 CFR 403.12(f), notify the National Response Center, and for transporting over water give notice as required by 33 CFR 153.203;

- (c) Provide a written report to the Department within ten (10) days of the incident detailing the steps that were taken to remediate the release and provide a written report to the USDOT, as required by 49 CFR 171.16; and
- (d) Clean up and properly dispose of any used oil that was discharged and any materials contaminated with the used oil.
- (e) In emergency situations, removal of used oil and materials contaminated with used oil may be conducted by a used oil transporter that does not have an EPA Identification Number, if so authorized by the Department.

3. Tracking.

- (a) Used oil transporters shall keep a record of each used oil shipment accepted for transport for a period of at least three years 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 15.8.
2. **Authorization Requirements.** All persons who shall construct, substantially alter, operate or own a used oil temporary storage facility shall first submit a complete application to the Office of Waste Management and obtain a Letter of Authorization from the Director prior to conducting any such activities on-site.
3. **Closure Plan and Financial Requirements.** Owners or operators of used oil temporary storage facilities shall develop a closure plan, complete with a cost estimate for closing down their facility, and submit this plan along with an application for Authorization as defined in Rule 15.7(H)(5) below. Owners or operators shall document their financial ability to complete the closure plan equivalent to the cost estimate contained within the closure plan. If the owner or operator fails to satisfy these requirements the Director may deny their Application for Authorization.
4. **Operating a used oil temporary storage facility without a Letter of Authorization or a renewal of authorization is prohibited.**
5. **Application Specifications.** All applications for Authorization shall contain at least the following information:
 - (a) The location of the facility, including the Assessor's Plat and Lot numbers;
 - (b) The name and address of the property owner and operator of the Facility;
 - (c) A complete description of the used oil transfer and storage operations at the facility;
 - (d) A site plan depicting the Facility's floor plan, yard layout, drainage system and storage location(s).
 - (e) A complete list of all pollution control and safety equipment to be utilized or maintained on-site.
 - (f) A copy of the applicant's liability insurance policy for the Facility; and
 - (g) The facility's closure cost estimate and financial assurance mechanism.
6. **Application Fees.** An application fee of six thousand dollars (\$6,000.00) shall be submitted with each new application for a Letter of Authorization to operate a used oil temporary storage facility.
7. **Authorization Period.** Each Letter of Authorization shall be valid for a period of not more than three (3) years from the date of issuance.

8. Expiration of Authorization/Renewal of Authorization. At least ninety (90) days before the end of the authorization period specified above, the owner/operator may submit a renewal application in accordance with the requirements of this Rule in order to renew its Authorization to operate a used oil temporary storage facility. This application shall include all of the information required in Rule 15.7 (H) and a renewal application review fee of three thousand (\$3,000.00) dollars.
9. Posting. Any Letter of Authorization issued hereunder shall be maintained on the Facility and posted in a conspicuous location.
10. Change of Ownership or Location. Changes in ownership, administration or location of used oil temporary storage facilities are subject to the following requirements:
 - (a) The Director shall be notified in writing thirty days prior to a change in ownership of the facility or legal entity operating the facility or location or discontinuance of services;
 - (b) A Letter of Authorization shall immediately become void and shall be returned to the Director upon change in location of any facility;
 - (c) A Letter of Authorization is voidable at the sole discretion of the Department whenever there is any sale of the facility or change in ownership of the property of the legal entity operating the facility. A new entity, prior to the commencing of operation of the facility, shall satisfy the Director of its ability to safely operate the facility, as well as its financial ability to operate and close said facility. This demonstration to the Director by the new entity shall include a proposed date for the transfer of the Letter of Authorization, liability insurance coverage and any other information 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 15.4(A), (B), (C) and (D).
13. Storage Units. Owners or operators of used oil temporary storage facilities may not store used oil in units other than tanks and containers.

14. Condition of Storage Units. Containers and aboveground storage tanks used to store used oil at used oil temporary storage facilities shall be:
 - (a) In good condition and free of severe rusting, corrosion or structural defects. In the event that a container deteriorates and begins to leak the generator shall transfer the used oil to a container that is in good condition;
 - (b) Liquid tight with no visible leaks;
 - (c) Kept closed except when adding or removing used oil.
15. Secondary Containment for Containers and Aboveground Storage Tanks (ASTs). Containers and ASTs used to store used oil shall be equipped with a secondary containment feature that at a minimum has the following:
 - (a) An impervious floor or bottom covering the entire storage area; and
 - (b) Dikes, berms or walls capable of containing a spill or release; and
 - (c) A capacity equivalent to a minimum of 100% of the volume of used oil stored in the containers at the facility; and
 - (d) The entire system shall be impervious to used oil to prevent a release; or
 - (e) An equivalent containment system may be substituted if prior approval is obtained from the Director.
16. Exterior Storage. Owners and operators of used oil temporary storage facilities that store used oil in containers and/or aboveground tanks outdoors shall either construct the storage area with a means to prevent the accumulation of stormwater in the secondary containment device; or obtain a Stormwater Permit from the Department's Office of Water Resources prior to the construction of the storage area.
17. Labeling. Containers and aboveground storage tanks used to store used oil at used oil temporary storage facilities shall be clearly and permanently marked with the words "Used Oil". Fill pipes for underground storage tanks used to store used oil at used oil temporary storage facilities shall be clearly marked with the words "Used Oil". Markings for USTs shall comply with the requirements of the *Rules and Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials*.
18. Response to releases. Upon detection of a release of used oil, the owner or operator of a used oil temporary storage facility shall perform the following:
 - (a) Take immediate steps to stop the release;
 - (b) Contain all of the released used oil;
 - (c) Clean up and properly manage the used oil and any other materials that were contaminated with used oil;
 - (d) Repair or replace any leaking or damaged storage units prior to returning them to service; and

- (e) Immediately notify the Department's Emergency Response Program (at 222-1360 or after hours at 222-3070), the local authorities and, if required by 49 CFR 171.15, notify the National Response Center.
- (f) Comply as applicable with the requirements of the *Oil Pollution Control Regulations, Rules and Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials* and all other applicable Federal, State and Municipal Rules and Regulations relating to the release and handling of spilled or released used oil.

19. Tracking.

- (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 15.1(F).

15.8 Used Oil Processor and Re-Refiner Standards

A. Applicability. The requirements of this Rule apply to owners and operators of facilities that process used oil as defined in Rule 3.0.

- 1. The requirements of Rule 15.8 do not apply to:
 - (a) Incidental processing that occurs during transport (e.g., settling and water separation);
 - (b) Used oil removed from electrical transformers or turbines and filtered by the used oil transporter prior to being returned to its original use;
 - (c) Used oil generators that conduct incidental processing in accordance with Rule 15.4(E); or
 - (d) Used oil burners that conduct incidental processing operations during the normal course of used oil management prior to burning or that aggregate off-specification used oil with virgin or specification used oil for the purposes of burning.
- 2. Used oil processors/re-refiners are subject to other applicable Rules as follows:
 - (a) Processors/re-refiners who generate used oil shall comply with the requirements of Rule 15.4;

- (b) Processors/re-refiners who transport used oil shall also comply with the requirements of Rule 15.7;
 - (c) Processors/re-refiners who burn used oil for energy recovery shall also comply with the requirements of Rule 15.3;
 - (d) Processors/re-refiners who direct a shipment of used oil to a used oil burner or first make the claim that used oil meets the requirements of specification used oil shall also comply with the requirements of Rule 15.9.
- B. Permit Requirement. All persons who shall construct, substantially alter, operate or own a used oil processing or re-refining facility shall first obtain a permit from the Director prior to conducting any such activities. Operating a used oil processor/re-refiner facility without a permit is prohibited.
- C. Liability Insurance. Owners or operators of used oil processor/re-refiner facilities shall maintain liability insurance sufficient to provide coverage of \$1,000,000.00 (one million dollars) per incident.
- D. Closure Plan and Financial Requirements. Owners or operators of used oil processor/re-refiner facilities shall submit to the Department's Office of Waste Management a closure plan, complete with a cost estimate for closure and cleanup of the facility, along with an application for a permit as set forth in Rule 15.8 herein. Owners or operators shall also include a financial assurance mechanism demonstrating the financial ability of the applicant to fund the closure cost estimate contained in the closure plan. If the owner or operator fails to satisfy each of these requirements the Director may deny their application for a permit.
- E. Application Specifications. All applications for a permit shall specify the following:
 - 1. The location of the facility including the Assessor's Plat and Lot numbers;
 - 2. The name and address of the owner and operator of the facility;
 - 3. A complete description of the operations at the facility subject to the permit with specific statements of operational limitations and/or capacity limitations;
 - 4. A complete description of the types of used oil that will be stored 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 for processing these applications and shall substitute the words “used oil processing/re-refining facility” for the words “hazardous waste management facility” as it is referred to in Rule 7.
- I. Application Requirements. Applications submitted to the Department for the construction or modification of a facility that processes or re-refines used oil shall contain all of the applicable elements required in Rule 7.
- J. Duration and Renewal of Permits. Permits for used oil processing or re-refining facilities shall be issued for a period not to exceed five (5) years and may be extended or renewed by the Director for a period of not more than five (5) years. A new permit application is required at the end of the ten year period and shall be submitted at least one hundred eighty (180) days prior to the expiration of the existing permit. Permit renewal applications will be processed in accordance with Rule 15.8 (H) and (I).
- K. Notification. Used oil processors and re-refiners shall also notify the Department of such activity and obtain an EPA Identification Number by submitting to the Department a Notification of Regulated Waste Activity Form (EPA Form 8700-12).
- L. General Facility Standards. Owners and operators of facilities that process or re-refine used oil shall comply with the following requirements:
 - 1. Facilities shall be maintained and operated to minimize the possibility of a fire, explosion or any accidental release of used oil to air, soil, groundwater or surface water 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 15.8 (P);
 - (c) The plan shall list names, addresses and phone numbers (office and home) of all persons qualified to act as an emergency coordinator for the facility, the list shall identify a primary emergency coordinator and this list shall be kept current. Where more than one person is listed, those other than the primary emergency coordinator shall be listed in the order they will assume this role as alternates;
 - (d) The plan shall list all emergency equipment located at the facility including, but not limited to, fire control equipment/systems, spill control equipment, communication/alarm systems and decontamination equipment. The list shall be kept current and the plan shall include a sketch depicting the location and type of equipment;
 - (e) The plan shall include an evacuation plan for facility personnel and shall include a sketch of all evacuation routes and alternate evacuation routes located at the facility. The plan shall also describe the signal to be used to alert facility personnel to evacuate the facility.
3. The owner or operator of the facility shall maintain 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) and report his/her findings. This report shall include:
 - (i) Name and telephone number of the reporter;
 - (ii) Name and address of the facility;
 - (iii) Time and type of the incident;
 - (iv) Name and quantity of the materials involved;
 - (v) Extent of the injuries resulting, if any; and
 - (vi) The possible hazards to human health and the environment.
 - (f) During the emergency the emergency coordinator shall take all reasonable measures necessary to ensure that fires, explosions and releases do not occur, reoccur or spread to other used oil or hazardous waste stored at the facility. These measures shall include, where applicable, stopping processes and operation, containing and collecting released materials and moving or isolating containers.
 - (g) In the event that facility operations 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 15.1(B). The owner or operator of a processing/re-refining facility shall maintain records of all analytical testing or determinations made based on product knowledge for a period of at least three (3) years.
- S. Used Oil Analysis Plan. Owners or operators of used oil processing/re-refining facilities shall develop and follow a written set of analytical procedures to ensure compliance with Rule 15.8(R). The owner operator shall keep the analysis plan current, maintain it at the facility and the plan shall include the following:

1. A statement indicating whether the determination of total halogen content of the used oil will be made based on knowledge of halogen content or sample analyses.
 2. If the owner or operator uses sample analyses for the determination of total halogen content, the plan shall indicate the following:
 - (a) The analytical method used will be ASTM Method D808-95 or an equivalent method approved by the EPA and contained in EPA Publication SW-846, "Test Methods for Evaluating Solid Waste-Physical/Chemical Methods, Edition III";
 - (b) The sampling method used to obtain the representative sample, acceptable sampling methods include those listed in 40 CFR 261 Appendix I or an equivalent method approved by the Director;
 - (c) The frequency of the sampling to be performed and an indication as to whether the analysis will be performed on-site or off-site.
 3. If the owner or operator determines the total halogen content of the used oil based only on knowledge of the halogen content, the plan shall indicate the type and source of the information used in making this determination.
 4. If the total halogen content is determined to be greater than 1,000 ppm, the plan shall indicate the analytical test methods or information used to rebut the presumption of mixing hazardous waste and used oil.
 5. If specification used oil is received for burning on-site, the plan shall describe the analytical and sampling methods used to determine that the used oil meets the criteria established in Rule 15.3 and include the information regarding the total halogen content required in Rule 15.8 (S) (1-3). The plan shall also indicate whether sampling and analysis will occur before or after processing/re-refining.
- T. Management of Used Oil. Used oil processor/re-refiners as defined in Rule 3.0 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 3.0.
 2. Condition of Storage Units. Containers and aboveground storage tanks used to store used oil at processing/re-refining facilities shall be:
 - (a) In good condition and free of severe rusting, corrosion or structural defects. In the event that a container deteriorates and begins to leak the generator shall transfer the used oil to a container that is in good condition;

- (b) Liquid tight with no visible leaks;
 - (c) Kept closed except when adding or removing used oil.
3. Secondary Containment for Containers and Above Ground Tanks (ASTs). Containers and aboveground tanks used to store used oil shall be equipped with a secondary containment feature that at a minimum has the following:
- (a) A floor or bottom that is impervious to used oil covering the entire area; and
 - (b) Dikes, berms or retaining walls capable of containing a spill or release of used oil; and
 - (c) A capacity equivalent to 100% of the volume of used oil stored in the containers at the facility; and
 - (d) The entire system shall be impervious to used oil to prevent a release; or
 - (e) An equivalent containment system that is approved by the Director.
4. Exterior Storage. Used oil processor/re-refiners that store used oil in containers and/or aboveground tanks outdoors shall either construct the storage area with a means to prevent the accumulation of stormwater in the secondary containment device; or obtain a Stormwater Permit from the Department's Office of Water Resources prior to the construction of the storage area.
5. Labeling. Containers and aboveground storage tanks used to store or process used oil at used oil processing/re-refining facilities shall be clearly and permanently marked with the words "Used Oil". Fill pipes for underground storage tanks used to store used oil at used oil processing/re-refining facilities shall be clearly marked with the words "Used Oil". Markings for USTs shall comply with the requirements of the *Rules and Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials*.
6. Response to releases. Upon detection of a release of used oil, the owner or operator of a used oil processing/re-refining facility shall perform the following:
- (a) Take immediate steps to stop the release;
 - (b) Contain all of the released used oil;
 - (c) Clean up and properly manage the used oil and any other materials that were contaminated with used oil;
 - (d) Repair or replace any leaking or damaged used oil storage units prior to returning them to service; and
 - (e) Immediately notify the Department's Emergency Response Program (at 222-1360 or after hours at 222-3070), the local authorities and if required by 49 CFR 171.15 notify the National Response Center.

- (f) Comply with the requirements of the *Oil Pollution Control Regulations, Rules and Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials* and all other applicable Federal, State and Municipal Rules and Regulations relating to the release and handling of spilled or released used oil.
- U. Closure and Post Closure. The owner or operator shall close the facility in accordance with the closure plan approved by the Director, in compliance with all of the requirements of the Approval Letter issued by the Department and in a manner equivalent to that required by 40 CFR 264 Subpart G.
- V. Financial Requirements. The owner or operator shall meet the financial requirements contained in 40 CFR 264 Subpart H as well as the requirements set forth in Rule 7 of these rules and regulations. Owner or operators choosing the trust fund option described in 40 CFR 264.143(a) shall, for new facilities deposit the full amount of the closure cost estimate when the trust fund is established.
- W. Tracking.
 - 1. Used oil processors/re-refiners shall keep a record of each used oil shipment accepted for processing/re-refining 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 15.8(R) & (S); and
 - (b) Summary reports and details of all incidents that require implementations of the facility's contingency plan.
2. A used oil processor/re-refiner shall report to the Department on a biennial basis (by March 1 of each even numbered year), the following information regarding the previous year's used oil activities:
 - (a) The EPA Identification Number, name and address of the used oil processor/re-refiner;
 - (b) The calendar year covered by the report; and
 - (c) The quantities of used oil accepted for processing/re-refining and the manner in which the used oil is processed/re-refined, including the specific process employed.

Y. Off-site shipment. Used oil processors/re-refiners who initiate shipments of used oil off-site shall ship the used oil using a Rhode Island permitted used oil transporter who has an EPA Identification Number.

Z. Management of Residues. Used oil processors/re-refiners who generate residues from the storage, processing or re-refining of used oil shall manage the residues in compliance with Rule 15.1(F).

15.9 Used Oil Marketer Standards

- A. Applicability. The requirements of this Rule apply to any person that meets the definition of a used oil marketer contained in Rule 3.0.
- B. This Rule does not apply to the following persons:
 1. Used oil generators or used oil transporters who direct shipments of used oil to used oil processors/re-refiners that burn used oil incidentally as part of the processing of the used oil.

2. Persons who direct shipments of used oil to used oil burners that are not the first person to claim the used oil meets the requirements of Table 2 in Rule 15.3.
- C. Specification Used Oil. Prior to initiating a shipment of used oil from a used oil generator to a used oil burner the used oil marketer shall comply with the following:
1. Prior to shipping the used oil marketer has the used oil analyzed by a laboratory, or obtains certified copies of analytical test results conducted by a laboratory from the generator or transporter, to verify that the used oil meets the definition of specification used oil. Used oil marketers may use process and product knowledge to verify that used oil meets the requirements of specification used oil if such knowledge is documented by the used oil generator or used oil transporter.
 2. The used oil marketer shall maintain all records of analytical testing or documentation of knowledge of the used oil from the date the shipment occurs for a period of at least three years and shall provide such records to the Department upon request.
- D. Any person subject to the requirements of this Rule shall also comply with the applicable Rules listed below depending on their activities:
1. Rule 15.3, if their activity involves the burning of used oil;
 2. Rule 15.4; if their activity involves the generation of used oil;
 3. Rule 15.5; if their activity involves the aggregation of used oil;
 4. Rule 15.6; if their activity involves the collection of used oil;
 5. Rule 15.7; if their activity involves the transportation of used oil;
 6. Rule 15.8; if their activity involves the processing or re/refining of used oil, or involves the aggregation of or collection of used oil beyond what is allowed under Rules 15.5 and 15.6.
- E. Tracking.
1. Used oil marketers shall keep a record of each used oil shipment received for transport for a period of at least three years 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 that provided the used oil for transport.

2. Deliveries. Used oil marketers shall keep a record of each shipment of used oil that is delivered to another used oil transporter, processor/re-refiner, or used oil burner 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.

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)

16.0 CORRECTIVE ACTION

16.1 Applicability:

- A. For a facility owner or operator seeking a new permit or a renewal permit (including a post closure permit) for the treatment, storage, or disposal of hazardous waste, the corrective action provisions of 40 CFR 264.101(a)-(c) are incorporated by reference. These provisions in 40 CFR 264.101 do not apply to a remediation waste management site unless it is part of a facility subject to a permit for treating, storing, or disposing of hazardous wastes that are not remediation wastes.
- B. Additional requirements to address releases from certain types of solid waste management units, including regulated units (as defined in 40 CFR 264.90(a)(2)) and miscellaneous units, are provided in 40 CFR 264.90-.100, 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 16.1 A and B. The Department has the authority to require additional remediation measures on a case by case basis, when necessary to protect human health and the environment, in accordance with 40 CFR 270.32.

16.2 Permitting Options: A facility owner or operator that is required by the Department to obtain a permit to treat, store, or dispose of remediation waste that is hazardous shall comply with Rule 7 permitting requirements or shall seek a Remedial Action Plan permit (“RAP”). 40 CFR 270 Subpart H is incorporated by reference except as follows:

- A. In 270.80(a), replace “§§ 270.3 through 270.66” with “Rule 7”
- B. In 270.85(a)(1), replace §§ 270.3 through 270.66” with “Rule 7”.
- C. In 270.140 and 270.150, replace “issuing Regional Office” with “Department”.
- D. In 270.155, replace the “EPA’s Environmental Appeals Board”, “the Environmental Appeals Board”, and “the Board” with “the Department’s Administrative Adjudication Division”.
- E. In 270.155, add “(c) All appeals 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.”
- F. In 270.190, replace “EPA’s Environmental Appeals Board” and “the Environmental Appeals Board” with “the Department’s Administrative Adjudication Division”.
- G. In 270.190 add “(c)(4) The letter from the appealing person 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.”
- H. Delete 270.215(c) and (d).
- I. In 270.230(e), before the colon add “(provided the alternate locations are not at facilities subject to permits for treating, storing, or disposing of hazardous wastes that are not remediation wastes.)”

16.3 Management of Remediation Waste:

- A. The owner or operator of a remediation waste management site may seek to employ one or more of the following types of management units for increased flexibility in performing remediation:
 - 1. Corrective Action Management Units (CAMUs) as defined in 40 CFR 270.2 for treatment, storage, and/or disposal of remediation waste;
 - 2. Temporary Units (TUs) for treatment and/or storage of remediation waste under 40 CFR 264.553;
 - 3. Staging Piles for storage of remediation waste.
- B. These management units are defined in and subject to the provisions and conditions of 40 CFR 264.550-.554, 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 of it in a permitted hazardous waste landfill, provided the waste is at least treated and disposed of according to the provisions and conditions of 40 CFR 264.555, which is incorporated by reference.

17.0 APPEALS AND PENALTIES

- 17.1 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.
- 17.2 Civil Penalties for Violations:** Persons who shall violate the provisions of these rules and regulations shall be subject to the penalties as provided for by Chapter 23-19.1-17 (2001 Reenactment) of the General Laws of Rhode Island, 1956, as amended.
- 17.3 Criminal Penalties for Violations:** Persons who shall violate the provisions of these rules and regulations shall be subject to the penalties as provided for by Chapter 23-19.1-18, (2001 Reenactment) of the General Laws of Rhode Island, 1956, as amended.

APPENDIX 1 - ACUTE ORAL LD₅₀ (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 (LD₅₀ 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 (LD₅₀ or ED₅₀) 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 LD₅₀ 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 ^R (Pyrocatechol)*	Chlordane ^R
Chlorinated camphene (skin)	Chlorinated diphenyl oxide
Chlorobenzene (monochlorobenzene)	Chlorobromomethane
Chlorodiphenyl	o-Chlorostyrene
Coal tar pitch	Crag ^R (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 ^R) (Dinitrobenzamide)	
Dinitrotoluene	Disulfiram*
Endosulfan (Thiodan ^R)*	Epichlorohydrin
Ethanolamine	2-Ethoxyethyl acetate
Ethyl bromide	Ethylenediamine
Ethylene glycol dinitrate	Ethylene oxide
Ethyl silicate	Ferbam ^R
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 ^R
Platinum*	Propylene dichloride
Propylene oxide	n-Propyl nitrate
Pyridine	Quinone
Resorcinol ^R	Rotenone ^{R*}
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 ^R

*in solution

APPENDIX III – Sample Manifest Form (EPA Form 8700-22)

Please print or type. (Form designed for use on elite (12-pitch) typewriter.)

Form Approved. OMB No. 2050-0039

UNIFORM HAZARDOUS WASTE MANIFEST		1. Generator ID Number		2. Page 1 of		3. Emergency Response Phone		4. Manifest Tracking Number		
<div style="writing-mode: vertical-rl; transform: rotate(180deg);">GENERATOR</div>		5. Generator's Name and Mailing Address				Generator's Site Address (if different than mailing address)				
		Generator's Phone:								
		6. Transporter 1 Company Name				U.S. EPA ID Number				
		7. Transporter 2 Company Name				U.S. EPA ID Number				
<div style="writing-mode: vertical-rl; transform: rotate(180deg);">TRANSPORTER INT'L</div>		8. Designated Facility Name and Site Address				U.S. EPA ID Number				
		Facility's Phone:								
		9a. HM		9b. U.S. DOT Description (including Proper Shipping Name, Hazard Class, ID Number, and Packing Group (if any))		10. Containers		11. Total Quantity	12. Unit Wt./Vol.	13. Waste Codes
						No.	Type			
<div style="writing-mode: vertical-rl; transform: rotate(180deg);">DESIGNATED FACILITY</div>		1.								
		2.								
		3.								
		4.								
14. Special Handling Instructions and Additional Information										
15. GENERATOR'S/OFFEROR'S CERTIFICATION: I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations. If export shipment and I am the Primary Exporter, I certify that the contents of this consignment conform to the terms of the attached EPA Acknowledgment of Consent. I certify that the waste minimization statement identified in 40 CFR 262.27(a) (if I am a large quantity generator) or (b) (if I am a small quantity generator) is true.										
Generator's/Offeror's Printed/Typed Name				Signature				Month	Day	Year
16. International Shipments <input type="checkbox"/> Import to U.S. <input type="checkbox"/> Export from U.S. Port of entry/exit: _____ Transporter signature (for exports only): _____ Date leaving U.S.: _____										
17. Transporter Acknowledgment of Receipt of Materials										
Transporter 1 Printed/Typed Name				Signature				Month	Day	Year
Transporter 2 Printed/Typed Name				Signature				Month	Day	Year
18. Discrepancy										
18a. Discrepancy Indication Space <input type="checkbox"/> Quantity <input type="checkbox"/> Type <input type="checkbox"/> Residue <input type="checkbox"/> Partial Rejection <input type="checkbox"/> Full Rejection										
Manifest Reference Number: _____ U.S. EPA ID Number _____										
18b. Alternate Facility (or Generator)										
Facility's Phone: _____										
18c. Signature of Alternate Facility (or Generator)								Month	Day	Year
19. Hazardous Waste Report Management Method Codes (i.e., codes for hazardous waste treatment, disposal, and recycling systems)										
1.		2.		3.		4.				
20. Designated Facility Owner or Operator: Certification of receipt of hazardous materials covered by the manifest except as noted in item 18a										
Printed/Typed Name				Signature				Month	Day	Year

EPA Form 8700-22 (Rev. 1-04) Previous editions are obsolete.

DESIGNATED FACILITY TO DESTINATION STATE (IF REQUIRED)

Sample Manifest Continuation Sheet (EPA Form 8700-22a)

Please print or type. (Form designed for use on elite (12-pitch) typewriter.) Form Approved. OMB No. 2050-0039

UNIFORM HAZARDOUS WASTE MANIFEST (Continuation Sheet)		21. Generator ID Number	22. Page	23. Manifest Tracking Number	
24. Generator's Name					
25. Transporter _____ Company Name				U.S. EPA ID Number	
26. Transporter _____ Company Name				U.S. EPA ID Number	
GENERATOR	27a. HM	27b. U.S. DOT Description (including Proper Shipping Name, Hazard Class, ID Number, and Packing Group (if any))	28. Containers		29. Total Quantity
			No.	Type	30. Unit Wt./vol.
31. Waste Codes					
32. Special Handling Instructions and Additional Information					
TRANSPORTER	33. Transporter Acknowledgment of Receipt of Materials				
	Printed/Typed Name		Signature		Month Day Year
	34. Transporter Acknowledgment of Receipt of Materials				
	Printed/Typed Name		Signature		Month Day Year
DESIGNATED FACILITY	35. Discrepancy				
	36. Hazardous Waste Report Management Method Codes (i.e., codes for hazardous waste treatment, disposal, and recycling systems)				

EPA Form 8700-22a (Rev. 3-05) Previous editions are obsolete. DESIGNATED FACILITY TO DESTINATION STATE (IF REQUIRED)

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 _____, 2010, 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.

W. Michael Sullivan, Director
Department of Environmental Management

Notice given on: January 28, 2010

Public Hearing held on: March 18, 2010

Filing Date: _____

Effective Date: _____

Hwdemowm-hw10-01.doc