

TITLE 250 - DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 140 - WASTE & MATERIALS MANAGEMENT

SUBCHAPTER 05 - SOLID WASTE

PART 1 - Rules and Regulations for Solid Waste Management Facilities and Organic Waste Management Facilities.

1.1 Purpose

These Rules and Regulations are intended to minimize environmental hazards associated with the operation of solid waste landfills, transfer stations and collection stations, incinerators and resource recovery facilities, waste tire storage and recycling facilities, petroleum-contaminated soil processing facilities, construction and demolition debris facilities, and Organic Waste Recycling Facilities. They are also designed to promote planning and implementation of solid waste management facilities and Organic Waste Recycling Facilities where necessary and desirable throughout the State.

1.2 Authority

These Rules and Regulations are promulgated pursuant to the requirements and provisions of R.I. Gen. Laws Chapter 2-1, "Agricultural Functions of Department of Environmental Management", Chapter 2-22, "Rhode Island Soil Amendment Law", Chapter 2-23, "Rhode Island Right to Farm Act", Chapter 5-51, "Rhode Island State Board of Examiners of Landscape Architects", Chapter 23-18.8, "Rhode Island Recycling Act", Chapter 23-18.9, "Refuse Disposal", Chapter 23-19, "Rhode Island Resource Recovery Corporation Act", Chapter 23-19.1, "Hazardous Waste Management Act", Chapter 23-23, "Air Pollution", Chapter 23-63, "Vehicle Tire Storage and Recycling", Chapter 37-15.1, "Hard-to-Dispose Material-Control and Recycling", Chapter 42-17.1, "Department of Environmental Management", Chapter 42-17.6, "Administrative Penalties for Environmental Violations", Chapter 44-27, "Taxation of Farm, Forest, and Open Space Land", and Chapter 46-12, "Water Pollution", in accordance with the provisions of Chapter 42-35, "Administrative Procedures Act".

1.3 Incorporated Materials

- A. These regulations hereby adopt and incorporate 40 C.F.R. §§ 61, 141, 144, 232, 257, 258, 261, 264, 265, 280 and 792 (2017) by reference, not including any

further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations.

- B. These regulations hereby adopt and incorporate 51 FR 33992, 34006, 34014, 34028, Sept. 24, 1986 by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations.

1.4 Organization and Method of Operation

A. Organization

- 1. R.I. Gen. Laws §§ 23-18.9-8 and 23-18.9-9, establishes the Department of Environmental Management as the licensing agency for solid waste management facilities, and grants the Director the authority to establish Rules and Regulations to ensure proper, adequate, and sound solid waste management. R.I. Gen. Laws § 2-22-5 establishes the Department as the agency for purposes of registering composting facilities and grants the Director the authority to establish Rules and Regulations governing this registration process. R.I. Gen. Laws § 42-17.1-2(16), grants the Director the authority to establish minimum standards, subject to the approval of the Environmental Standards Board, for permissible types of refuse disposal facilities, the design, construction, operation, maintenance and location of disposal facilities. R.I. Gen. Laws § 42-17.1-2(19), authorizes the Department to issue and enforce rules, regulations and orders as may be necessary to carry out its duties. R.I. Gen. Laws § 42-17.1-2(21) authorizes the Department to give notice of alleged violations of law and to issue compliance orders, where appropriate.

B. Method of Operations and Powers:

- 1. The Department shall adopt, amend, promulgate and enforce such rules, regulations and standards with respect to all solid waste management facilities, Organic Waste Recycling Facilities, and projects to be licensed or registered to further the accomplishment of the purposes of R.I. Gen. Laws Chapters 2-1, 2-22, 2-23, 5-51, 23-18.8, 23-18.9, 23-19, 23-19.1, 23-23, 23-63, 37-15.1, 42-17.1, 42-17.6, 44-27, and 46-12.
- 2. The Department shall receive applications from persons desirous of being licensed or registered as a Solid Waste Management Facility, Organic Waste Recycling Facility, or other facility specified by the Rules and Regulations or from applicants desirous of constructing such a facility or installing any equipment in such a facility. The application must be made upon forms provided by the Department and shall also contain such other

information as the Department requires, which may include affirmative evidence of ability to comply with such rules, regulations and standards as are lawfully prescribed pursuant to R.I. Gen. Laws Chapters 2-1, 2-22, 2-23, 5-51, 23-18.8, 23-18.9, 23-19, 23-19.1, 23-23, 23-63, 37-15.1, 42-17.1, 42-17.6, 44-27, and 46-12.3.

C. Office of Waste Management:

1. A unit of the Department of Environmental Management designated the Office of Waste Management shall perform all duties related to administration of these Rules and Regulations. Such duties include the receipt, analysis, investigation, and processing of complaints, applications for licenses, registrations, and approvals, conducting of inspections, and determination of violations.

1.5 Definitions

A. As used in this Part:

1. "Active life" means, relative to Solid Waste Landfill Units, the period of operation beginning with the initial receipt of solid waste and ending at completion of closure activities per § 2.1.9 of this Subchapter.
2. "Active portion" means, relative to Solid Waste Landfill Units, that part of a facility or unit that has received or is receiving wastes and that has not been closed in accordance with § 2.1.9 of this Subchapter.
3. "Adulterated wood waste" means wood waste that has been treated, painted, coated, stained, soiled, contaminated, or similarly altered from its clean or virgin state.
4. "Aerated static pile composting" means a method of composting in which oxygen and temperature levels are mechanically controlled by forced aeration using blowers. A series of perforated pipes (or equivalent) air distribution system runs underneath the compost pile and is connected to a blower that either draws or blows air through the pile. Little or no pile turning is performed.
5. "Aeration" (for composting) means bringing about contact of air and composting solid organic matter, by means of turning or ventilating, to allow aerobic microbial metabolism of the organic matter.
6. "Aerobic" means occurring in the presence of oxygen.

7. "Aerobic composting" means decomposition of organic materials by bacteria in the presence of oxygen.
8. "Agricultural by-product" means discarded organic materials produced from the raising of plants and animals as part of agronomic, floricultural, horticultural, silvicultural, vinicultural or viticultural operations including, but not limited to, animal manure, bedding materials, plant stalk, leaves, other vegetative matter and discarded by-product from the on-farm processing of fruits and vegetables.
9. "Agricultural composting" means the composting of agricultural by-products and/or other specified compostable materials on an "agricultural unit", resulting in compost products for agricultural and horticultural uses.
10. "Agricultural composting facility" means that part of an agricultural unit upon which agricultural composting takes place. Such facilities must meet the requirements of the Division of Agriculture.
11. "Agricultural unit" means farmland as designated under R.I. Gen. Laws § 44-27-3 upon which agricultural operations as defined in R.I. Gen. Laws § 2-23-4 are undertaken by a farmer.
12. "Airport" means a public-use airport open to the public without prior permission and without restrictions within the physical capacities of available facilities, as defined in 40 C.F.R. § 257.3-8(e)(1) (1979).
13. "Anaerobic" means occurring in the absence of oxygen.
14. "Anaerobic digestion" means decomposition of organic material in the absence of oxygen.
15. "Anaerobic digestion facility" means an Organic Waste Recycling facility licensed by the Department that employs a closed vessel to perform a closed process of accelerated biodegradation of Organic Materials and/or organic solid wastes into biogas and digestate, using microorganisms under controlled conditions in the absence of oxygen.
16. "Apparent opening size" means the number of the U.S. Bureau of Standards sieve, or its opening size in millimeters or inches, having openings closest in size to the diameter of uniform particles which will allow five (5) percent or less by weight to pass through.
17. "Applicant" means a person seeking a new license or license renewal for a Solid Waste Management Facility or Organics Waste Recycling Facility or a new registration or registration renewal for a Composting Facility. It shall

also include persons seeking to construct or add new equipment to an existing Solid Waste Management Facility or Organics Waste Recycling Facility, whether licensed or registered.

18. "Aquifer" means a geologic formation, group of formations, or part of a formation that contains sufficient saturated, permeable material to yield significant quantities of water to wells and springs.
19. "Arrangements" mean the process by which cities and towns plan for, implement and carry out the separation, weighing, collecting, hauling and disposal of municipal solid waste and recyclable materials.
20. "Asbestos" means actinolite, amosite, anthophyllite, chrysotile, crocidolite, and tremolite.
21. "Ash residue" means all the solid residue and any entrained liquids resulting from the combustion of solid waste or solid waste in combination with fossil fuel at a solid waste incinerator, including bottom ash, boiler ash, fly ash, and the solid residue of any air pollution control device used at a solid waste incinerator.
22. "Backyard composting" means the composting on a residential site of certain wastes generated only at that site and where the compost produced is utilized on site and is not distributed or marketed. Wastes which may be composted include leaf and yard waste, certain food wastes including fruits and vegetables, tea leaves, coffee grounds, and egg shells; hair, sawdust, manures from animals that eat only plants, and other wastes acceptable to the Department for backyard composting.
23. "Base flood" means a flood that has a one (1) percent or greater chance of recurring in any year or a flood of magnitude equaled or exceeded once in 100 years on the average over a significantly long period, as defined in 40 C.F.R. § 257.3-1(b)(1) (2017) incorporated above at § 1.3(A) of this Part.
24. "Bedrock" means solid rock, commonly called ledge that forms the earth's crust.
25. "Biodegradable" means capable of being broken down (degraded) by microorganisms into simpler compounds or natural elements.
26. "Biogas" means the gas mixture produced in an anaerobic digestion process which is primarily composed of methane and carbon dioxide and also contains impurities such as hydrogen sulfide.

27. "Bird hazard" means an increase in the likelihood of bird/aircraft collisions that may cause damage to the aircraft or injury to its occupants (40 C.F.R. § 257.3-8(e)(2)) (2017) incorporated above at § 1.3(A) of this Part.
28. "Bottom ash" means the ash residue remaining after combustion of solid waste or solid waste in combination with fossil fuel in a solid waste incinerator that is discharged through and from the grates, combustor, or stoker.
29. "Buffer" means any distance, topographical feature, vegetative, or man-made structure that allows for mitigation of impacts of composting or other Solid Waste Management Facility activity on neighboring land uses.
30. "Buffer zone" means an area of land between an Organic Waste Recycling Facility or Solid Waste Management Facility and neighboring facilities or homes which shield these abutters from negative impacts of the Organic Waste Recycling Facility or Solid Waste Management Facility operations.
31. "Bulking agent" means a material added to composting wastes to provide structure to those wastes, to lower total moisture content and to allow air to reach and be held in small pockets within the waste, by preventing settling and compaction of the waste. Most bulking agents are carbonaceous, thereby providing a source of carbon to the composting mix, and are frequently chipped or shredded wastes, such as sawdust, wood chips or yard trimmings.
32. "Bulky waste" means large items of solid waste such as appliances, furniture, auto parts, stumps, etc.
33. "Bypass waste" means any solid waste that is either within the control of the operator of a solid waste incinerator or processing facility or within the control of another person that requires treatment at the facility but cannot be so treated, and includes:
 - a. "Downtime waste" means any treatable or burnable solid waste accumulated during a scheduled or unscheduled maintenance period of the facility; or
 - b. "Excess waste" means solid waste which cannot be treated because the facility is operating at the approved design capacity.
 - c. "Control" means control exercised by contract, local law, or any other means.

34. "Carbon to Nitrogen ratio" or "C:N ratio" means the numerical ratio of the mass of carbon to the mass of nitrogen in an organic material or in a mix of materials and which determines the composting potential of the organic material or the mix of materials.
35. "Cell" means compacted solid wastes that are completely enclosed by natural soil or cover material.
36. "Co-composting" means a composting operation which includes the use of septic waste or sewage sludge as part of its process for composting portions of the solid waste stream.
37. "Coefficient of permeability" and "Hydraulic conductivity" means the rate of laminar flow of water through a unit cross-sectional area of a porous medium under a unit hydraulic gradient at a standard temperature. The units of "coefficient of permeability" and "hydraulic conductivity" shall be expressed in centimeters per second.
38. "Collection station" means a Solid Waste Management Facility where refuse arrives by automobile or vehicles other than collection vehicles from sites separate from the collection station for transfer to another Solid Waste Management Facility.
39. "Combined ash" means the mixture of bottom ash and fly ash.
40. "Combustion" means the thermal treatment of solid waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character and composition of the waste. Examples of combustion processes include incineration, pyrolysis, and fluidized bed.
41. "Commercial waste" means solid waste generated by stores, offices, institutions, restaurants, warehouses and activities at industrial facilities.
42. "Compost" means a soil amending material resulting from the aerobic, thermophilic, microbial processing of organic materials.
43. "Compostable" means organic material that can be biologically decomposed under aerobic conditions.
44. "Compost class" means the designation of compost, according to its physical, chemical, and biological characteristics.
45. "Composting" means any aerobic, thermophilic process which allows for the conversion of raw organic materials into a stable soil amendment.

46. "Composting facility" means a facility, excluding any facility which composts only sewage sludge, which employs a composting process to produce compost from the organic fraction of the received solid waste stream.
47. "Composting pad" means the surface area within the Composting Facility upon which organic materials are composted.
48. "Construction certification report" means a report submitted to the Department upon completion of the construction of a Solid Waste Management Facility which includes, at a minimum, the resulting information prepared in accordance with the Department's Solid Waste Regulations and the license issued thereto.
49. "Construction and demolition debris processing facility" means a Solid Waste Management Facility that receives and processes construction and demolition debris. These facilities shall demonstrate, through records maintained at the facility and provided to the Department, that seventy-five percent (75%) of all material received by the facility is processed and removed from the site within six (6) weeks of receipt on a continuous basis, and that in no case stores material on site for over three (3) months, provided, however, such facilities do not include compost facilities.
50. "Construction and demolition debris separation facility" means a Solid Waste Management Facility that receives, separates, and/or screens construction and demolition debris into its components for subsequent resale or processing which includes but is not limited to grinding, shredding, crushing, or landfilling at another location separate and apart from the location in which the separation occurs.
51. "Construction and Demolition debris" or "C&D" means non-hazardous solid waste resulting from the construction, remodeling, repair, and demolition of utilities and structures; and uncontaminated solid waste resulting from land clearing. Such waste includes, but is not limited to wood (including painted, treated and coated wood and wood products), land clearing debris, wall coverings, plaster, drywall, plumbing fixtures, nonasbestos insulation, roofing shingles and other roofing coverings, glass, plastics that are not sealed in a manner that conceals other wastes, empty buckets ten gallons or less in size and having no more than one inch of residue remaining on the bottom, electrical wiring and components containing no hazardous liquids, and pipe and metals that are incidental to any of the above. Solid waste that is not C&D debris (even if resulting from the construction, remodeling, repair, and demolition of utilities, structures, and roads and land clearing) includes, but is not limited to, asbestos

waste, garbage, corrugated container board, electrical fixtures containing hazardous liquids such as fluorescent light ballasts or transformers, fluorescent lights, carpeting, furniture, appliances, tires, drums, containers greater than ten gallons in size, any containers having more than one inch of residue remaining on the bottom, and fuel tanks. Also excluded from the definition of C&D debris is solid waste resulting from any processing technique that renders individual waste components unrecognizable, such as pulverizing or shredding, at a facility that processes C&D debris.

- 52. "Corporation" means the Rhode Island Resource Recovery Corporation.
- 53. "Corrugated cardboard" means corrugated containers, substantially clean and dry, empty and free of wood, plastic, polystyrene and other packing materials. Wax coated and/or wood reinforced corrugated is excluded from this definition.
- 54. "Cover material" means clean soil or earth or other material approved by the Director that is used to cover compacted solid waste in a sanitary landfill.
- 55. "Critical habitat" means for a threatened or endangered species defined in the Endangered Species Act, 16 U.S.C. § 1532, and also includes State species of concern as identified by the Department.
- 56. "Curing" means the final stage of composting, after much of the readily metabolized organic material has been decomposed, in which the compost material further stabilizes at a slower rate and at a lower temperature than during the initial active composting phase.
- 57. "Curing area" means the area of the composting facility where curing of the compost occurs.
- 58. "Decomposition" means the breakdown of organic matter by microbial activity.
- 59. "Department" or "DEM", or "RIDEM" means the Rhode Island Department of Environmental Management.
- 60. "Destruction" or "Adverse modification" (of a critical habitat of endangered or threatened species) means a direct or indirect alteration of a critical habitat which appreciably diminishes the likelihood of the survival and recovery of threatened or endangered species using that habitat, as defined in 40 C.F.R. § 257.3-2 (c)(2) (2017) incorporated above at § 1.3(A) of this Part.

61. "Digestate" means the solid and liquid substances remaining following anaerobic digestion of organic materials and wastes.
62. "Director" means the Director or the Commissioner of the Rhode Island Department of Environmental Management and his or her designee.
63. "Discharge" means in the Clean Water Act of 1977, 33 U.S.C. § 1322(a) (9), and for the purposes of these Rules and Regulations, it includes leaching and releases.
64. "Disposal" means the abandonment, discard or final disposition of waste.
65. "Distribute" means to offer for sale, sell, barter, or otherwise supply compost products derived from organic solid waste.
66. "Distributor" means the person or company which distributes or markets composted products derived from organic solid waste.
67. "Diversion rate" means the total amount (reflected as a percentage) of a material, diverted from disposal through waste prevention, recycling, or reuse.
68. "Dredged material" means as defined in the Clean Water Act of 1977, 33 U.S.C. § 1402.
69. "Enclosed vessel" or "In-vessel composting" means the composting of materials within an enclosed vessel in which adequate mixing, aeration, and moisture control are provided.
70. "Endangered species" or "Threatened species" means as defined in the Endangered Species Act, 16 U.S.C. § 1532(6) and (20), and also includes State species of concern as identified by the National Heritage Program.
71. "Energy recovery" means treatment by which energy is derived or extracted from solid waste.
72. "Energy recovery incinerator" means an incinerator in which household waste and nonhazardous industrial/commercial waste are combusted for energy production.
73. "Environmental management district" means the area located in the Town of Johnston and the City of Cranston bounded by Plainfield Pike on the South; Peck Hill Road on the west; Central Avenue on the north; and I-295 on the east.

74. "Existing SWLF Unit" means, relative to Solid Waste Landfill Units, any solid waste landfill that is receiving solid waste as of October 9, 1993. Waste placement in existing units must be consistent with past operating practices or modified practices to ensure good management.
75. "Facility" means (see "Solid Waste Management Facility").
76. "Facilities that process construction and demolition debris" means facilities that receive and process construction and demolition debris.
77. "Farmer" means an individual, partnership or corporation who operates a farm and meets the requirements of R.I. Gen. Laws § 2-1-22(j).
78. "Final cover" means cover material which will be permanently exposed to the environment.
79. "Finished compost" or "finished product" means compost that meets at least minimum requirements for public health, safety and environmental protection and is suitable for use as defined by compost quality standards or as approved by the Department.
80. "Flood plain" means, "that land area adjacent to a river or stream or other body of flowing water which is, on the average, likely to be covered with flood waters resulting from a one-hundred (100) year frequency storm," as defined in the R.I. Fresh Water Wetlands Act, R.I. Gen. Laws § 2-1-20, and in the "Rules and Regulations Governing the Administration and Enforcement of the Fresh Water Wetlands Act."
81. "Fly ash" means the ash residue from the combustion of solid waste or solid waste in combination with fossil fuel that is entrained in the gas stream of a solid waste combustion facility and removed by the air pollution control equipment.
82. "Food chain crops" mean crops consumed by humans as well as crops grown as feed for animals whose products, in-turn, are consumed by humans.
83. "Foreign matter" means the inorganic and organic constituents that are not readily decomposed and which may be present in finished compost. Examples include, but are not limited to, glass, plastics, metals, rubber, bones and leather.
84. "Friable asbestos material" means any material that contains more than one (1) percent asbestos by weight and that can be crumbled, pulverized, or reduced to powder, when dry, by hand pressure.

85. "Generator" means any person whose act or process produces a solid waste or whose act first causes solid waste to be subject to regulation under this Subchapter.
86. "Geocomposite" means a manufactured material using geotextiles, geogrids, geomembranes, or combinations of same, in a laminated or composite form.
87. "Geogrid" means a deformed or non-deformed netlike polymeric material used with foundation, soil, rock, earth, or any other geotechnical engineering-related material as an integral part of the man-made structure or system to provide reinforcement to soil slopes.
88. "Geomembrane" means an essentially impermeable membrane used with foundation, soil, rock, earth, or any other geotechnical engineering-related material as an integral part of a man-made structure or system designed to limit the movement of liquid or gas in the system.
89. "Geonet" means a type of geogrid that allows planar flow of liquids and serves as a drainage system.
90. "Geosynthetics" mean the generic classification of all synthetic materials used in geotechnical engineering applications, including geotextiles, geogrids, geomembranes, and geocomposites.
91. "Geotextile" means any permeable textile used with foundation, soil, rock, earth, or any other geotechnical engineering-related material as an integral part of a man-made structure or system designed to act as a filter to prevent the flow of soil fines into drainage systems, to provide planar flow for drainage, or to serve as a cushion to protect geomembranes, or to provide structural support.
92. "Groundwater" means water found underground which completely fills the open spaces between particles of sediment and within rock formations.
93. "Groundwater recharge area" means the land surface from which water is added to the zone of saturation. The recharge area for a particular well or aquifer, for instance, is that land surface from which water moves to the well or aquifer or may move to the well or aquifer under certain hydraulic conditions.
94. "Groundwater reservoir" refers to those stratified drift deposits having a saturated thickness greater than or equal to 40 feet and a transmissivity greater than or equal to 4000 feet squared per day which have been determined by the Director to be potentially significant sources of water.

95. "Hazardous waste" means any waste as defined in the Rhode Island Hazardous Waste Management Act, R.I. Gen. Laws § 23-19.1.4(4), or in the Hazardous Waste Regulations adopted pursuant thereto.
96. "Health", "RIDOH" or "DOH" means the Rhode Island Department of Health.
97. "Heavy metals" means metallic elements with higher molecular weights and at certain concentrations, some of these elements may present health risks to humans and animals and may be toxic to plants.
98. "Humus" means a complex amorphous aggregate, formed during the microbial decomposition or alteration of plant and animal residues and products synthesized by soil organisms; principal constituents are derivatives of lignins, proteins, and cellulose combined with inorganic soil constituents and for water absorption.
99. "Impermeable" or "Impervious" means not permitting the passage of liquids through its substance.
100. "Impermeable liner" means a layer of natural or man-made material of sufficient thickness, density and composition so as to impede the passage of a fluid to a degree that will satisfy the standards required by the Department. For natural materials, this standard shall be 1×10^{-7} cm/sec. For man-made materials, this standard shall be 1×10^{-12} cm/sec.
101. "Incinerator" means an arrangement of chambers and equipment designed for burning solid, semi-solid or gaseous combustible waste to a gas and residue. Incinerators used only for the combustion of solid waste generated on site shall not be covered by this definition.
102. "Initial cover" means cover material that is spread and compacted on the top, side slopes, and the face of compacted solid waste at least at the end of each operating day in accordance with § 2.3.4(A) of this Subchapter.
103. "Inocula" or "Inoculum" means preconditional microorganisms or compost added to a raw material to assure that appropriate microorganisms are present so as to sustain decomposition of organic material in a composting process.
104. "Inorganic materials" mean materials in which there are no carbon-to-carbon bonds, such as minerals, and which, therefore, will not undergo biological decomposition.

105. "Intermediate cover" means cover material which must resist erosion for a longer period of time because it is applied in accordance with § 2.3.4(B) of this Subchapter on areas where additional cells are not to be constructed for extended periods of time.
106. "Landfill cell" means a discrete volume of a landfill which uses a liner system to provide isolation of solid waste from adjacent cells of solid waste.
107. "Landfill gas recovery facility" means a facility in which gases produced from the decomposition of solid wastes are collected for the purpose of the control of landfill gas migration and/or for the recovery of energy.
108. "Land reclamation" means the restoration of productivity to lands made barren through processes such as erosion, mining, or land clearing.
109. "Large-scale leaf and yard waste composting facility" means a facility that is required to be registered with the Department and is designed and operated to receive and compost only leaf and yard waste. The facility's capacity is greater than six hundred (600) cubic yards or more of leaf and yard waste in the staging, storing, processing and curing stages. Only finished compost is excluded.
110. "Large-scale putrescible waste composting facility" means a facility that is required to be registered with the Department and is designed and operated to receive and compost only putrescible waste. The facility's capacity is greater than six hundred (600) cubic yards or more of waste in the staging, storing, processing and curing stages. Only finished compost is excluded.
111. "Lateral expansion" means, relative to Solid Waste Landfill Units, a horizontal expansion of the waste boundaries of an existing SWLF unit.
112. "Leachate" means a liquid that has percolated through, or originated in solid waste and is presumed by these Rules and Regulations to contain dissolved or suspended materials from solid waste.
113. "Lead-free" means any soil, compost, sludge, or other designated medium that either contains no lead, or contains lead in amounts less than the maximum acceptable environmental lead levels established in the Rhode Island Department of Health "Rules and Regulations for Lead Poisoning Prevention."
114. "Lead-safe" means any soil, compost, sludge, or other designated medium that contains lead in amounts less than the maximum permissible

environmental lead levels established in the Rhode Island Department of Health "Rules and Regulations for Lead Poisoning Prevention"; which poses no significant environmental lead exposure hazard despite having a lead concentration above that required for a designation as "Lead free".

- 115. "Leaf and yard waste" means seasonal deposition of leaves from deciduous and coniferous trees and shrubbery, grass clippings, weeds, herbaceous garden waste, shrub and tree prunings, seaweed, Christmas trees and brush.
- 116. "Licensing agency" means the Department of Environmental Management.
- 117. "Lift" means a compacted layer of solid waste plus its overlying cover material in a sanitary landfill.
- 118. "Liner system" means a continuous layer of natural and man-made materials, beneath or on the sides of a surface impoundment, landfill, or landfill cell, which restricts the downward or lateral escape of solid waste, any constituents of such wastes, or leachate and which complies with these Rules and Regulations.
- 119. "Manure" means a waste composed of excreta of animals.
- 120. "Materials Recovery Facility" or "MRF" or "Intermediate Processing Facility" or "IPF" means a facility consisting of structures, machinery, or devices utilized to sort, bale, or otherwise process or ready to transport to processors, only Source Segregated Recyclable Materials prior to conveyance to market outlets. Facilities meeting the above requirements are not required to apply for a Solid Waste Management Facility license except for facilities that accept, store, or process waste tires pursuant to R.I. Gen. Laws Chapter 23-63.
- 121. "Mature compost" means compost that has stabilized and has undergone a reduction of pathogens below the level of human risk. It is characterized as containing readily available forms of plant nutrients, poor in phytotoxic acids and phenols, and low in available carbon compounds.
- 122. "Medium-scale composting facility" means a composting facility that is required to be registered with the Department and is designed and operated to compost between twenty-five (25) cubic yards and no more than six hundred (600) cubic yards of leaf, yard and/or putrescible waste on the property at any given time. The maximum quantity includes unincorporated feedstock and feedstock that is staged, stored, processed or in the curing stage. Only finished compost is excluded.

123. "Microorganisms" mean living organisms visible only with a microscope.
124. "Mixed solid waste" means heterogeneous and commingled solid waste, which may include readily biodegradable organic wastes, as well as other organic wastes which are not readily biodegradable and may also contain inorganic, non-compostable wastes.
125. "Mixed solid waste composting facility" means a Solid Waste Management Facility that utilizes organic waste recycling by producing compost from the compostable portion of a mixed solid waste input stream.
126. "Monofill" means a landfill or landfill cell into which only one homogeneous type of waste is placed.
127. "Municipal solid waste" means that solid waste generated by the residents of a municipality in the course of their daily living, the disposal of which the governing body of the municipality has undertaken in the discharge of its duties to protect the health of the municipality. Municipal Solid Waste does not include Solid Waste generated by residents of a municipality in the course of their employment or that is generated by any manufacturing or commercial enterprise.
128. "New SWLF unit" means relative to Solid Waste Landfill Units, any solid waste landfill unit that has not received waste prior to October 9, 1993.
129. "Non-compostable" means incapable of decomposing naturally or of yielding safe, non-toxic end products, after decomposition.
130. "Non-hazardous liquid and semi-liquid waste" means any discarded material that is liquid or semi-liquid and which is not hazardous waste, as defined in the Hazardous Waste Management Act, R.I. Gen. Laws Chapter 23-19.1, or Rules and Regulations promulgated pursuant to such Act.
131. "Oil spill cleanup debris" means waste resulting from the cleanup of debris caused by spilling, depositing or placing of petroleum distillates, including but not limited to crank case oil, lubricants and hydraulic oil, penetrant oils, tramp oils, quenching oils, kerosene, gasoline, aviation fuels, diesel, and Nos. 2, 4, and 6 heating oil, onto the land or into the waters of the State.
132. "On-farm" means on farmland owned by the agricultural composting facility owner.
133. "Open burning" means the combustion of solid waste without:

- a. Control of combustion air to maintain adequate temperature for efficient combustion,
 - b. Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and
 - c. Control of the emission of the combustion products.
134. "Operating an organic waste recycling facility" means receiving Organic Waste Materials at any facility, whether knowingly or unknowingly. Any property owner is considered to be operating an Organic Waste Recycling Facility if an amount of Organic Waste Materials greater than twenty-five (25) cubic yards exists on their property. For purposes of disposal, any property owner will be considered to be operating a Solid Waste Management Facility if the amount of solid waste at the property is greater than three (3) cubic yards.
135. "Operating a solid waste management facility" means receiving solid waste at any facility, whether knowingly or unknowingly. For purposes of disposal, such receipt must be in an amount greater than three cubic yards, per R.I. Gen. Laws § 23-18.9-5; and any property owner is considered to be operating a Solid Waste Management Facility if an amount of solid waste greater than three cubic yards exists on their property.
136. "Operator" means the person, corporation, or entity responsible for daily operations or activities at an Organic Waste Recycling Facility or Solid Waste Management Facility, whether licensed, unlicensed, registered or unregistered.
137. "Organic material" or "Organic waste materials" mean materials that are the organic portion of the solid waste stream, contain carbon-to-carbon bonds and are biodegradable, such as paper, wood, food scraps, food processing residue, leaves, and yard waste.
138. "Organic waste recycling facility" means a compost facility or Anaerobic Digestion Facility.
139. "Owner" means any person, corporation, or entity who owns an Organic Waste Recycling Facility or Solid Waste Management Facility and who may also own the real property upon which the facility is located and/or constructed, whether licensed, unlicensed, registered or unregistered.

140. "Passive windrow composting" means composting of wastes in windrows in which wastes are turned at least twice per year.
141. "Pathogens" mean organisms or microorganisms including viruses, bacteria, fungi, helminth, and protozoa capable of producing an infection or disease in a susceptible host.
142. "Percent moisture" (relative to composting) means weight of water in a material divided by the total weight of the material, multiplied by one hundred (100).
143. "Percolation" means the downward movement of water or liquids through the pores or spaces of material or soil.
144. "Permeability" means the ability of water or liquids to percolate through a material or soil.
145. "Person" means an individual, firm, joint stock company, partnership, association, private or municipal corporation, government or quasi-governmental corporation, state, commission, political subdivision of a state, any interstate body, municipality or the federal government or any agency or subdivision thereof.
146. "Petroleum contaminated soil" means soil that is contaminated from an aboveground or under-ground leak or spill of a petroleum product. The soil must be contaminated with only virgin (unused) petroleum products. Included in this group are the following products:
 - a. Unused distillate and residual oil including, but not limited to, gasoline, aviation fuels, kerosene, diesel, and Nos. 2, 4, and 6 heating oil;
 - b. Unused crankcase oil, lubricants, hydraulic oils, penetrant oils, tramp oils, quench oils, and other industrial oils.
147. "pH" means the logarithm of the reciprocal of the hydrogen ion concentration (base 10) and shall be a measure of how acidic (pH less than 7) or basic (pH greater than 7) a material is. A pH of 7 is considered neutral.
148. "Physical contaminants" means any non-biodegradable material such as plastic, metal, glass, stones or masonry debris.
149. "Phytotoxic" means detrimental, because of toxicity, to plant growth.

150. "Pollutant" means any material or effluent which may alter the chemical, physical, biological, or radiological characteristics and/or integrity of water, including but not limited to, dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, cellar dirt or industrial, municipal, agricultural, or other waste, petroleum or petroleum products, including but not limited to oil.
151. "Pollution" means the entrance or discharge of any pollutant into any waters of the state including groundwaters, in such quantity, either by itself or in connection with other materials so discharged, as to alter the physical, chemical, biological or radiological characteristics and/or integrity of said waters, including change in temperature, taste, color, turbidity or odor, and, to cause or be likely to cause damage to the public, or to any person having a right to use said waters for human consumption, commercial or domestic uses, for boating, fishing or other purposes, or owning property in, under or bordering upon same.
152. "Practice" means the act of disposal of solid waste, as defined in 40 C.F.R. § 257.2 (2017), incorporated above at § 1.3(A) of this Part.
153. "PFRP" means the Process to Further Reduce Pathogens required during the composting process.
154. "Processable material" means those Recyclable Materials that meet criteria of purity and condition as defined by the Corporation and the Department in conjunction with the operator of the MRF.
155. "Project engineer" means the official representative of the permittee who is licensed to practice engineering in the State of Rhode Island, who will direct an engineering design team in development projects throughout the entire cycle from initial permit application through completion. In addition, the project engineer shall be responsible for documenting and certifying that the construction activities related to Solid Waste Management Facilities were performed in accordance with applicable Solid Waste Regulations, engineering standards and approved engineering plans. All certifications must bear his seal, his signature, and the date of certification.
156. "Putrescible waste" means solid waste including, but not limited to, fish waste and other food wastes which contains organic matter capable of being decomposed by microorganisms and that has a tendency to form foul-smelling by-products, during decomposition, and may provide food for vectors or birds.

157. "Quality assurance" means the application of standards and procedures to ensure that a product or facility meets or exceeds desired performance criteria, and documentation to verify the results obtained. "Quality Assurance" includes "quality control" and refers to actions taken to assure conformity of the construction with the Department approved quality assurance plan, engineering plans, reports, and specifications.
158. "Quality control" means those actions which provide a means to measure and regulate the characteristics of an item or service to contractual and regulatory requirements. Quality control includes those actions taken before construction to ensure that the materials chosen and workmanship comply with the Department approved quality control plan, engineering plans, reports and specifications.
159. "Recycling" means the reuse or remanufacture of recovered resources in manufacturing, agriculture, power production or other processes.
160. "Recyclable material" means any material listed as a recyclable material in the Rhode Island "Rules and Regulations for Reduction and Recycling of Municipal Solid Waste", Subchapter 20 Part 2 of this Chapter and the "Rules and Regulations for Reduction and Recycling of Commercial and Non-Municipal Residential Solid Waste", Subchapter 20 Part 1 of this Chapter or the Rhode Island Battery Deposit and Control Regulations, or oil subject to the hard-to-dispose-of tax as stated in R.I. Gen. Laws Chapter 37-15.1.
161. "Recyclables" means for purposes of these Rules and Regulations, any residual recyclable material remaining in a solid waste stream after removal (source segregation) of recyclable material by the original generator(s) of the solid waste, in accordance with the "Rules and Regulations for Reduction and Recycling of Municipal Solid Waste", Subchapter 20 Part 2 of this Chapter and the "Rules and Regulations for Reduction and Recycling of Commercial and Non-Municipal Residential Solid Waste", Subchapter 20 Part 1 of this Chapter and/or other recyclable material not defined as such or not regulated by these municipal and commercial recycling Rules and Regulations.
162. "Refining" means (relative to composting) screening and other procedures (if applicable) which may be required to meet product quality standards and meet market requirements.
163. "Refuse" means Solid Waste as defined in § 1.5(A)(186) of this Part.
164. "Refuse derived fuel" means treated solid waste that is used as a fuel.

165. "Refuse derived fuel processing facility" means the combination of structures, machinery, or devices utilized to reduce or alter the volume of mixed solid waste before delivery to a solid waste incinerator.
166. "Registered compost facility" means a Medium-Scale Composting Facility, a Large-Scale Leaf and Yard Waste Composting Facility or a Large-Scale Putrescible Waste Composting Facility that has received registration acceptance from the Department. The Registered Compost Facility shall operate in accordance with the information submitted on the Composting Operation/Facility registration form on file at the Department and in accordance with Rhode Island Organic Waste Recycling Facilities, Part 8 of this Subchapter.
167. "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment. For purposes of these Rules and Regulations, release also includes any storage, disposal, or abandonment of any substance or material in a manner which presents a substantial threat of release as herein defined.
168. "Resident" means of a city or town means anyone residing in that municipality for any period of time.
169. "Residue" means any solid that remains after completion of solid waste processing including incineration products such as bottom ash, fly ash and grate siftings.
170. "Resource recovery" means the processing of solid waste in such a way as to produce materials or energy which may be used in manufacturing, agriculture and other processes.
171. "Resource recovery facility" means a processing facility which accepts solid waste for the purpose of resource recovery.
172. "Run-off" means any rainwater, leachate, or other liquid that drains over land from any part of a facility.
173. "Run-on" means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.
174. "Sanitary landfill" means a licensed land disposal site employing an engineered method of disposal of solid waste in a manner that absolutely minimizes environmental hazards, including: spreading the solid waste in thin layers, compacting the solid waste to the smallest practical volume; and applying cover material at the end of each operating day, or at such

more frequent intervals as may be necessary. A sanitary landfill also means a solid waste landfill.

175. "Screening of compost" means the process of passing compost through a screen or sieve to remove large particles of organic and inorganic materials, so as to improve the consistency and quality of the end product.
176. "Screenings" means facilities that separate or process construction and demolition debris, means that material that is separated out of the construction and demolition debris waste stream by passage through or retention on a screen.
177. "Seed materials" means, relative to composting, additives or inocula added to the waste to accelerate or activate the composting process.
178. "Segregated solid waste" means solid waste that has been separated into Recyclable Materials and non-recyclable wastes in compliance with these regulations.
179. "Septic waste" means any solid, liquid, or semi-solid waste removed from septic tanks or cesspools, lagoons, trucks, or other sources.
180. "Sewage sludge" means a semi-liquid substance consisting of settled sewage solids combined with water and dissolved materials in varying amounts.
181. "Shredding" means breaking up waste materials into small pieces, usually in the form of irregularly shaped strips that is generally performed by mechanical methods.
182. "Size reduction" means the breaking up of solid waste or other materials into smaller pieces, through abrasion, thermal dissociation, tearing, screening, tumbling, rolling, crushing, chipping, shredding, grinding, shearing, etc., in order to make the waste material easier to separate and relative to composting processes, to increase the surface area for composting.
183. "Small-scale composting operation" means a composting operation that is designed and operated to compost twenty-five (25) cubic yards or less of leaf, yard and/or putrescible waste on the property at any given time. The maximum quantity includes unincorporated feedstock and feedstock that is staged, stored, processed or in the curing stage. Only finished compost is excluded.

184. "Soil amendment" means a soil additive which stabilizes the soil, improves the resistance to erosion, increases its permeability to air and water, improves its texture and the resistance of the surface to crusting, makes it easier to cultivate, or otherwise improves its quality.
185. "Soil amendment ingredient" means a substitute which improves the physical characteristics of the soil.
186. "Solid waste" means garbage, refuse and other discarded solid materials generated by residential, institutional, commercial, industrial and agricultural sources but does not include solids or dissolved material in domestic sewage or sewage sludge, nor does it include hazardous waste as defined in the Rhode Island Hazardous Waste Management Act, R.I. Gen. Laws Chapter 23-19.1, nor does it include used asphalt, concrete, Portland concrete cement, or tree stumps. For purposes of these Rules and Regulations, solid waste also includes non-hazardous liquid, semi-solid, and containerized gaseous wastes, subject to any special conditions contained in these Rules and Regulations.
187. "Solid waste landfill unit" or "SWLF" means a discrete area of land or an excavation that receives solid waste and that is not a land application unit, surface impoundment, injection well, or a waste pile as defined per 40 C.F.R. § 257.2 (2017), incorporated above at § 1.3(A) of this Part. A SWLF unit may receive all types of RCRA Subtitle D wastes, such as commercial solid waste, C & D wastes, certain non-hazardous sludges, and industrial solid waste. Such a landfill may be publicly or privately owned. A SWLF unit may be a new SWLF unit, an existing SWLF unit or a lateral expansion.
188. "Solid waste management facility" means any plant, structure, equipment, real and personal property that receives solid waste, except mobile equipment or incinerators with a capacity of less than one thousand (1,000) pounds per hour.
189. "Source segregated recyclable materials" means useful material which has been separated from the waste stream at the point of generation for the purpose of recovering and recycling these materials.
190. "Source separated solid waste" or "source segregated solid waste" means solid waste that has been segregated into recyclable and non-recyclable materials at the point of generation and in compliance with Subchapter 20 Part 2 of this Chapter, "Rules and Regulations for Reduction and Recycling of Municipal Solid Waste" and Subchapter 20 Part 1 of this

Chapter, "Rules and Regulations for Reduction and Recycling of Commercial and Non-Municipal Residential Solid Waste".

191. "Stability" (relative to composting) means the degree to which a composted material can be stored or used without giving rise to nuisances (odors or vectors) or can be applied to the soil without causing problems.
192. "Stabilization" means the second stage of composting (following decomposition) characterized by slow metabolic processes, lower heat production, and the formation of humus-like material.
193. "Staging area" means the temporary holding area where solid waste is received, mixed, or debugged before moving it to the processing and/or composting area.
194. "State" means the State of Rhode Island.
195. "Surface public water supply" means surface water that supplies piped water for human consumption by means of a system having at least fifteen (15) service connections or regularly serving at least twenty-five (25) individuals for at least sixty (60) days of the year.
196. "Surface water" means a body of water whose top surface is exposed to the atmosphere including rivers, ponds, lakes, etc.
197. "Take" means, "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct," as defined in the Endangered Species Act, 16 U.S.C. § 1532.
198. "Thermophylic" means occurring in a high temperature range, usually 45 degrees to 75 degrees centigrade.
199. "Toe" means the bottom of the working face or side slope of a land disposal site where deposited solid waste is in contact with virgin ground or a previous lift.
200. "Transfer station" means a Solid Waste Management Facility, other than a materials recovery facility or intermediate processing facility that can have a combination of structures, machinery, or devices where solid waste is taken from collection vehicles and ultimately placed in other transportation units for movement to another Solid Waste Management Facility.
201. "Uppermost aquifer" means, relative to Solid Waste Landfill Units, the geologic formation nearest the natural ground surface that is an aquifer,

as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

- 202. "Vector" means a carrier, usually an insect or rodent that is capable of transmitting a pathogen from one organism to another.
- 203. "Washout" means the carrying away of solid waste by waters of the base flood, as defined in 40 C.F.R. § 257.3-1 (2017), incorporated above at § 1.3(A) of this Part.
- 204. "Waste" means discarded or abandoned solid, semi-solid or liquid material.
- 205. "Waste management" means actions taken to effectuate the receipt, storage, transportation, processing for resource recovery, recycling, and/or the ultimate disposal of solid waste.
- 206. "Waste management unit boundary" means, relative to Solid Waste Landfill Units, a vertical surface located at the hydraulically down gradient limit of the unit. This vertical surface extends down into the uppermost aquifer.
- 207. "Waste tire storage and recycling facility" means a facility for used vehicle tire recycling or recovery and/or where greater than four hundred used vehicle tires are stored or are intended to be stored.
- 208. "Water table" means the upper surface of the zone of saturation in an unconfined aquifer.
- 209. "Wellhead protection area" means the critical portion of a three-dimensional zone, designated by the Director, surrounding a public well or well-field through which water will move toward and reach such well or well-field.
- 210. "Windrow" means an elevated pile of solid waste, formed for the purpose of composting, no larger than any dimension constraints specified in these Rules and Regulations, and which is oriented along the fall line of the compost pad and fits within the perimeter of the compost pad.
- 211. "Windrow composting" means the composting of organic materials that are arranged in a series of windrows and which are turned periodically to aerate and mix the waste materials to speed up decomposition and reduce or prevent odors.

212. "Working face" means that portion of a land disposal site where solid waste is discharged by collection and/or haulage vehicles and is spread and compacted prior to placement of cover material.
213. "Yard waste" means leaves, grass clippings, weeds, herbaceous garden waste, shrub and tree prunings, and brush.

1.6 Prohibitions

- A. General: No person shall construct, develop, establish, manage, own or maintain a Solid Waste Management Facility or Organic Waste Recycling Facility, without first having obtained approval issued by the Department. No person shall operate a Solid Waste Management Facility or Organic Waste Recycling Facility without first having obtained a license or registration to operate from the Department. Small-Scale Composting Operations are excluded from these requirements.
- B. Water:
1. Surface Water Pollution: A Solid Waste Management Facility, Organic Waste Recycling Facility, or practice, whether licensed or unlicensed, shall not cause pollution of the waters of the United States so as to violate the Water Pollution Act, 1956 R.I. Gen. Laws Chapters 46-12, Section 402 of the Clean Water Act, 33 U.S.C. § 12.51 *et seq.*, nor shall the facility or practice cause a discharge of dredged material or fill in violation of Section 404 of the Clean Water Act.
 2. Groundwater Pollution: A Solid Waste Management Facility, Organic Waste Recycling Facility, or practice, whether licensed or unlicensed, shall not cause pollution of groundwater beyond the licensed, registered or operational area of the facility. In addition, the facility shall comply with the requirements of the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, and the regulations adopted pursuant to the Act, specifically 40 C.F.R. § 257.3-4 (2017), incorporated above at § 1.3(A) of this Part.
- C. Air:
1. Open Burning: Open burning of any type at a Solid Waste Management Facility or Organic Waste Recycling Facility, whether licensed or unlicensed, shall be prohibited.
 2. Air Standards: A Solid Waste Management Facility or Organic Waste Recycling Facility, whether licensed or unlicensed, shall not violate the following:

- a. State implementation plans approved or promulgated pursuant to R.I. Gen. Laws Chapter 23-23; the Rules and Regulations adopted to implement such Chapter, and any applicable provisions of the Clean Air Act, 42 U.S.C. § 7410.
 - b. The State Air Pollution Control Act, and the Rules and Regulations promulgated thereunder.
- D. Odors: A Solid Waste Management Facility or Organic Waste Recycling Facility, whether licensed or unlicensed, shall not emit or cause to be emitted into the atmosphere any air contaminant or combination of air contaminants which creates an objectionable odor beyond the property line of said facility. Odor evaluations shall be conducted by Department personnel to determine if an odor is objectionable by taking into account its nature, concentration, location, duration, and source.
- E. Low Level Radioactive Waste: The disposal of low level radioactive waste at an Organic Waste Recycling Facility or Solid Waste Management Facility is prohibited. All low level radioactive waste must be managed in accordance with Rhode Island Department of Health Rules and Regulations for the Control of Radiation
- F. Facilities Prohibited from Operating: Facilities that meet any of the following characteristics shall be prohibited from operating in the State of Rhode Island, and shall be subject to any and all enforcement actions under the authority of the R.I. Gen Laws Chapters 23-18.9, 23-19, and 42-17.1.
 - 1. Facilities that accept or store co-mingled recyclable materials, including wood waste and construction and demolition debris, without obtaining a license, registration, or approval from the Department.
 - 2. Facilities that accumulate material speculatively and/or facilities that accept or store co-mingled recyclable materials and operate outside the confines of a closed structure without obtaining a license, registration, or approval from the Department.

1.7 General Requirements and Procedures

- A. Note: § 1.7 of this Part does not apply to Small-Scale Composting Operations and Medium-Scale Composting Facilities, except for § 1.7(F) of this Part.
- B. Plans and Specifications
 - 1. Initial Application: Applications for licenses and registrations must include plans and specifications. All applicants, regardless of facility type, must

demonstrate their ability to comply with all General Operating Standards set forth in § 1.9 of this Part, as well as the general requirements in this rule. Each applicant must also submit all plans and specifications required for the particular type of facility, as enumerated in Parts 2 through 8 of this Subchapter.

2. **Renewal Application:** Applications for renewal of licenses and registrations must include the submission of the facility's operating plan as required for the particular type of facility enumerated in Parts 2 through 8 of this Subchapter. The operating plan must be updated to include all changes, additions or deletions that have occurred within the last licensing or registration period and that are anticipated for the new licensing or registration period.
- C. **Time of Application:** The application for approval to construct, develop, establish, manage, own, or maintain a license or registration to operate a Solid Waste Management Facility or Organic Waste Recycling Facility shall be submitted at least nine (9) months prior to the planned opening date for an original license or registration, and three (3) months prior to the expiration date for renewal of a license or registration.
- D. **Documentation of Ownership:** Each application shall be accompanied by:
1. A list of the direct and indirect owners of the proposed Organic Waste Recycling Facility or Solid Waste Management Facility and the underlying real property, whether individual, partnership, corporation, or other form of organization. If a corporation, the list shall include all officers, directors and other persons owning ten percent (10%) or more of the corporate stock.
 2. In the event that a person other than the owner of the underlying real property, or of the facility, is responsible for the operation of the Organic Waste Recycling Facility or Solid Waste Management Facility, each person shall comply with the requirements of § 1.7(D)(1) of this Part.
- E. **Certification:** Each application, plan, report, or document or any associated progress reports shall include the following statements signed by an authorized representative of the party specified:
1. A statement signed by an authorized representative of the person who prepared the application, plan, report, or document certifying, to the best of their knowledge, the accuracy of the information contained in the submittal; and

2. A statement signed by the facility owner or operator responsible for the preparation and submittal of the application, plan, report, or document certifying, to the best of their knowledge, that the submittal is a complete and accurate representation, and that it includes all known facts required therein.
3. If the owner of the real property is different from the operator of the facility, then the owner must certify that he allows the operation, and is the guarantor of proper closure of the facility.
4. Construction Certification Report: RI DEM has the right to request an additional certification in regards to specific Solid Waste Management Facilities (e.g.; Incinerators, Resource Recovery Facilities and Landfills) due to the engineering complexity and technical difficulties associated with their construction. This report must include, at a minimum, the information prepared in accordance with the Department's approved project's Quality Assurance/Quality Control Plan. In addition, the Construction Certification Report must contain as-built drawings noting any deviation from the approved engineering plans and must also contain a comprehensive analysis including, but not limited to, daily reports from the project engineer.
5. Zoning: Granting of a license, license renewal, registration or permission for an equipment addition shall in no way affect the applicant's or owner/operator's responsibility to meet all zoning and other local ordinances, nor the applicant's or owner/operator's responsibility to obtain any local permits, except as provided by R.I. Gen. Laws.

F. General Plan Requirements:

1. All required plans and reports shall be stamped by a professional engineer, land surveyor, or landscape architect as appropriate and in accordance with each professional's discipline, as required by R.I. Gen. Laws § 5-51-1.
2. At the time of application, the applicant shall submit for approval all operating, engineering, and other plans required by these rules. Said plans shall comprehensively identify all activities at the facility(s), and address impacts of activities on regulated operations.

G. Need: Application for a Solid Waste Management Facility license shall meet the criteria established by R.I. Gen. Laws § 23-18.9-8.1. All public projects shall meet the criteria for need established in R.I. Gen. Laws § 23-19-4(b), and the Director shall require no further demonstration of need. Private facilities shall meet all

relevant criteria established by regulation to protect human health and the environment, and the Director shall require no further demonstration of need.

- H. Equipment Addition: Plans as required by the Department must be submitted prior to the addition of any equipment to an existing facility.
- I. Groundwater Quality Certification: In order to determine compliance with groundwater classification, groundwater quality certification in accordance with and pursuant to Section 17 of the "Groundwater Quality Rules" is required for the issuance of a solid waste disposal facility license.
 - 1. Groundwater quality certification review shall be by the Department's Groundwater Section in accordance with and pursuant to Section 17.2 of the "Groundwater Quality Rules".
 - 2. Criteria for groundwater quality certification approvals shall be in accordance with and pursuant to Section 17.3 of the "Groundwater Quality Rules".
- J. Closure Procedures:
 - 1. General: Each applicant shall submit a closure plan with the application for license or renewal or registration (where applicable) that shall contain information required by this rule. Each applicant shall also submit a closure plan required for the particular type of facility as enumerated in Parts 2 through 8 of this Subchapter
 - 2. Financial Responsibility:
 - a. The applicant and/or licensee shall file an estimate of the costs of closing the facility after its capacity is reached or operations have otherwise terminated, or when the Director may require it. The estimate shall take into account both the general information listed in this rule, as well as closure plans stipulated for the particular type of facility as enumerated in Parts 2 through 8 of this Subchapter
 - b. Financial Requirement: Every applicant shall post a bond or other suitable form of financial assurance approved by the Director, unless the Director determines that such financial assurance is not necessary to insure proper closure, closures and/or post closure monitoring. Financial assurance shall equal the estimate in § 1.7(J) (2)(a) of this Part or it may exceed such estimate if the Director determines that such estimate is not adequate to fund closure procedures, post closure monitoring or compliance with these Rules and Regulations.

- c. Whenever the Director finds that the operator is in violation of any closure requirements for the facility, or at any other time deemed necessary by the Director to insure that these Rules and Regulations are complied with, the Director shall have the right to use part or all of the financial assurance to complete such closure or other requirements. Part or all of the financial assurance shall be forfeited upon receipt of an order entered after a hearing by the Director stating that the operator is in violation of any closure or other requirements for the facility. Upon issuance of a certificate of closure, part of the financial assurance shall be released and a portion of said financial assurance may be kept by the Director as he determines is necessary to insure that the required monitoring procedures shall be completed.
- 3. Notification of Closure: The operator shall notify the Director of the impending closure of the facility at least ninety (90) days prior to such closure.

1.8 Issuance, Renewal, and Conditions of Licenses and Registrations

- A. Note: § 1.8 of this Part does not apply to Small-Scale Composting Operations and Medium-Scale Composting Facilities, except for the requirements in §§ 1.8(I) (1), 1.8(I)(4), 1.8(J), and 1.8(K) of this Part.
- B. General Issuance and Renewal of Licenses and Registrations: Any person who desires to construct, develop, establish, manage, own, operate, or maintain a Solid Waste Management Facility or Organic Waste Recycling Facility must obtain a license or registration from the Department. A license or license renewal shall be issued for a period of three years from the date of issuance, unless sooner suspended or revoked. Relative to any Organic Waste Recycling Facilities that require registration, the registration or registration renewal shall be issued for a period of three years from the date of issuance, unless sooner suspended or revoked. Each license, license renewal, registration, or registration renewal shall be issued only for the facility named in the application and shall not be transferable or assignable except with the written approval of the Department. Each license, license renewal, registration, or registration renewal shall show compliance with these Rules and Regulations.
- C. Posting of License or Registration: A license or registration issued hereunder shall be the property of the State. It shall be kept posted in a conspicuous place on the licensed or registered facility and must be kept legible and protected from the weather. The license or registration conveys no property right to the licensee

or registrant and the licensee or registrant acknowledges this fact through its submission of an application for a license or registration.

D. Change of Ownership, Administration and/or Location:

1. Change in ownership or membership of the legal entity conducting, maintaining, or operating the facility:
 - a. Prior to this change, all information requested by the Department shall be submitted for its review and approval, as required to perform an appropriate background check on the prospective new owner or legal entity.
 - b. Prior to this change, an updated operating plan shall be submitted to the Department that shows all operating changes that will occur as a consequence of the owner or legal entity change. Note, any significant amendments and/or revisions to the operating plan or facility will require the issuance of a new license or registration (versus renewal).
 - c. If the prospective new owner or legal entity is acceptable to the Department, per the background check, and if the updated operating plan is also acceptable to the Department, then the prospective new owner or legal entity shall submit a fee equal to the license renewal fee or registration renewal fee for the applicable type of Solid Waste Management Facility or Organic Waste Recycling Facility, pursuant to § 1.14 of this Part. The Department shall, in turn, issue a full-term renewal license for a facility that must be licensed or a registration renewal for any facility that must be registered.
 - d. When the change in ownership or legal entity becomes effective, the previous owner's or legal entity's license or registration becomes void and must be immediately returned to the Department.
2. Change in Facility Location or Sale or Lease of Facility:
 - a. Prior to any of these changes, the Department shall be notified and the Department shall provide further guidance on the prospective change and any additional requirements. See also § 1.8(E) of this Part.

- b. When the change becomes effective, the previous license or registration becomes void and must be immediately returned to the Department.
- E. Approval for New Areas and/or Services: The license or registration shall apply only to the Solid Waste Management Facility or Organic Waste Recycling Facility operating at the time the license or registration is issued. Additional areas or services shall be subject to the approval of the Department and requirements of licensure or registration.
- F. Separate Licenses or Registrations:
 - 1. Separate licenses or registrations shall be required for Solid Waste Management Facilities or Organic Waste Recycling Facilities which are located in separate geographical areas even though they are under the same management.
 - 2. A separate license or registration may be issued to a distinct part of a facility which can be identified as a separate unit.
- G. Fees: The license or registration fee as well as any other necessary charges shall be determined by R.I. Gen. Laws § 23-18.9-9, or by R.I. Gen. Laws § 2-22-5 for composting facilities that must register. Licenses and registrations shall expire three years from the date of issue, unless sooner suspended or revoked. A fee schedule for Organic Waste Recycling Facility or Solid Waste Management Facility applications and renewals is provided in § 1.14 of this Part. Additional Compost Facility fees are provided in § 1.14(B) of this Part.
- H. Denial, Suspension, or Revocation of License or Registration:
 - 1. Procedure and Grounds: The Department, after notice and opportunity for hearing to the applicant or licensee, is authorized to deny, suspend or revoke a license or deny a license renewal where it finds there has been a failure to comply with regulations established by the licensing agency, or where the applicant or licensee is not in compliance with any approved operating or engineering plans adopted pursuant to these Rules and Regulations. The Department may, after notice and opportunity for hearing to the registrant, deny, suspend, or revoke a facility registration or deny a facility registration renewal where it finds there has been a failure to comply with regulations established by the Department, or where the registrant is not in compliance with any approved operating or engineering plans adopted pursuant to these Rules and Regulations.
 - 2. Corrective Action: Whenever the Department determines that a licensed Solid Waste Management Facility is not being operated in conformance

with all of the regulations established by the licensing agency, or, that the licensed facility is not being operated in conformance with an approved operating or engineering plan adopted pursuant to these Rules and Regulations, it may, in lieu of or in addition to suspension or revocation of the license of that facility, order the licensee to take whatever corrective action is necessary to secure compliance with the regulations established by the licensing agency, subject to the provisions of R.I. Gen. Laws § 42-17.1-2(21). Whenever the Department determines that a registered facility is not being operated in conformance with all of the regulations established by the Department, or, that the registered facility is not being operated in conformance with an approved operating or engineering plan adopted pursuant to these Rules and Regulations, it may, in lieu of or in addition to suspension or revocation of the registration of that facility, order the registrant to take whatever corrective action is necessary to secure compliance with the regulations established by the Department, subject to the provisions of R.I. Gen. Laws § 42-17.1-2(21).

3. No person shall operate any Solid Waste Management Facility, Organic Waste Recycling Facility, or solid waste processing device which is subject to license, registration or approval by the Department without a license, registration or approval of the Department. No facility may operate after a license, registration or approval has been denied. Any license, registration or approval issued under these Rules and Regulations may be suspended, revoked or amended by the Director at any time upon showing, after notice and hearing, that the permittee has failed to comply with the provisions of this chapter, Rules and Regulations promulgated by the Director pursuant to this chapter, or the terms and conditions of the license, registration or approval or upon showing, after notice and hearing, that the continued operation of the licensed, registered or approved source constitutes a threat to the health and safety of the public or to the environment. In any proceeding for revocation, suspension, or amendment of a license, registration or approval pursuant to this regulation, the Director will provide the affected party with the opportunity for an adequate hearing. No revocation, annulment, or withdrawal of any license, registration or approval is lawful unless the agency sent notice by mail to the licensee or possessor of a registration or approval of the facts or conduct or violation which warrants the action, and the permittee or possessor of a license or registration is given an opportunity at hearing to show compliance with all lawful requirements for the retention of the license, registration or approval. If the agency finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of license, registration or approval may be ordered pending proceedings for

revocation or other action. These proceedings shall be promptly instituted and determined.

I. Inspections:

1. The Department shall make or cause to be made such inspections, take such tests and specimens and to make such investigations as it deems necessary.
2. The Department or other designated authorized personnel shall conduct inspections and shall have the right to enter without prior notice to inspect any Solid Waste Management Facility or Organic Waste Recycling Facility for which an application has been received or for which a license or registration has been issued. Any application shall constitute permission for or 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, licensee or registrant to view the facility, examine records (including any and all on-site or off-site locations where records are kept), and obtain such information as may be required for the inspection, testing and investigation. Refusal to permit reasonable inspections, tests and investigations shall constitute valid grounds for denial, revocation or suspension of a license; denial, revocation or suspension of a registration; and/or issuance of a Notice of Violation with Administrative Penalty.
4. The inspector may leave a copy of the inspection report at the facility and such report shall constitute notice of any deficiencies. Such deficiencies as are noted in the inspection report may be used as the basis of a notice of violation and may be taken into account in any license or registration renewal proceeding, in any request for new areas and/or services, and in any equipment addition request.
5. All Solid Waste Management Facilities and Organic Waste Recycling Facilities shall maintain records and report to the Department, as required, relative to the amounts of materials received and recycled.

- J. Inspection Reports and Correction of Deficiencies: Every Organic Waste Recycling Facility or Solid Waste Management Facility shall be given prompt notice by the Department of deficiencies reported as a result of an inspection, test or investigation. Such notification may be made by regular mail - postage prepaid from the Director to the person or facility inspected, tested or investigated. Notice may also be made by leaving a copy of the inspection report with an employee at the facility.

K. Penalties:

1. Any person who constructs a Solid Waste Management Facility or Organic Waste Recycling Facility, or installs equipment in the facility without first obtaining approval of the plans and specifications for the facility, or any person who operates the facility without obtaining a license or registration to do so from the Director, may be assessed an administrative penalty of up to \$25,000. For purposes of these Rules and Regulations, each and every day during which the violation shall be repeated shall be a separate and distinct offense.
2. Any person who operates a Medium-Scale Composting Operation without first submitting a "Registration Form for Medium-Scale Composting Facility" to the Department in accordance with the requirements set forth in § 8.4(A)(1) of this Subchapter may be assessed an administrative penalty up to \$25,000.
3. Any person who disposes of solid waste anywhere other than at a licensed Solid Waste Management Facility may be assessed an administrative penalty of up to five thousand dollars (\$5,000). For the purposes of these Rules and Regulations, each and every day during which the violation is repeated shall be a separate and distinct offense.

L. Demonstration Pilot Projects:

1. A municipality that desires to evaluate available technologies, equipment, or methodologies for managing solid waste, may request approval from the Director to perform a limited demonstration pilot project prior to submission of an application for a license.
2. Demonstration projects shall not exceed fifty (50) tons per day maximum capacity.
3. The municipality shall first submit to the Director, for approval, a description of the proposed operations and plans and specifications in accordance with § 1.7(B) of this Part including fire protection plans and other related data as required by the Director.
4. The municipality shall give public notice of the request and allow a thirty (30) day period for the Director to receive public comment on the proposed project. After the close of the public comment period, the Director is authorized to approve or deny the request.
5. Approval for a demonstration project shall be granted for a period not exceeding six (6) months.

1.9 General Operating Standards

- A. Note: § 1.9 of this Part does not apply to Small-Scale Composting Operations and Medium-Scale Composting Facilities.
- B. Applicability: The following regulations contained in this rule shall apply to Organic Waste Recycling Facilities and Solid Waste Management Facilities. In addition, operating regulations for the particular type of facility must also be complied with as enumerated in these Rules and Regulations.
- C. Access:
 - 1. Time: Access to the facility shall be limited to the hours in which authorized operating personnel are on duty at the facility. Additional time shall be designated before and after normal operating hours to allow for "housekeeping chores", such as initial and intermediate cover application at sanitary landfills, wind-blown refuse control at all facilities, etc. There shall be no access to the facility for the acceptance of solid waste during these times.
 - 2. Physical Restraints: There shall be gates at all entrances to the facility which will prevent access to the facility, except at such times as permitted under § 1.9(C)(1) of this Part. These gates should be locked when the site is unsupervised. Fences will be required around the facility to limit unauthorized access.
- D. Salvage: Only controlled removal and handling of waste for utilization shall be permitted at the site. Material to be salvaged should be unloaded at a salvage area. Salvaging of refuse shall be conducted in such a manner so as not to impede the proper operation of the facility and to insure the health and safety of all persons engaging in such activities.
- E. Processing of Bulky Waste: Bulky wastes including, but not limited to, clothes washers and dryers, stoves, refrigerators, freezers, microwave ovens, dishwashers, air conditioners, fluorescent lighting fixtures and computer parts potentially containing PCB capacitors, must meet the following requirements for disposal at all solid waste management facilities:
 - 1. All capacitors must be removed prior to processing or disposal.
 - 2. Once they are removed, capacitors must be stored in Department of Transportation approved 55 gallon drums with attachable covers. The drums shall contain a 6-inch layer of an approved absorbent material at the bottom. The attachable drum cover shall be secured at the end of each working day or before the drum is transported by any means.

3. Storage, transportation and final disposal of drums containing capacitors must be in accordance with all applicable State and Federal regulations including, but not limited to, the Rules and Regulations for Hazardous Waste Management and regulations promulgated in accordance with the Federal Toxic Substances Control Act.
 4. Procedures for identifying, removing, storing and disposing of PCB capacitors must be outlined in the facility's operating plan.
 5. Procedures for identifying, removing, storing and recycling of chlorinated fluorocarbons (CFCs or freon) must be outlined in the facility's operating plan.
 6. Disposal facilities may contract with outside vendors to meet the requirements of this rule. Details of the contract must be included in the facility's operating plan.
- F. Vector Control: The facility shall not operate unless an on-site vector population is minimized by periodic application of cover material and by other appropriate techniques that will protect public health.
1. Conditions shall be maintained that are sanitary and therefore unfavorable for the harboring, feeding, and breeding of vectors.
 2. Control of insects and rodents, where needed, shall be effected by means of a program directed by a professional exterminator utilizing insecticides and/or rodenticides or other means approved by the Department.
- G. Signs:
1. There shall be erected at the entrance to the facility a sign, clearly legible and visible, which shall contain the following:
 - a. Name of facility and operator
 - b. Emergency phone number
 - c. Restricted materials (if applicable)
 - d. Operating hours
 2. There must be adequate directional signs within the facility to direct drivers to the appropriate unloading area, assist in traffic control, and to regulate speed within the facility.

- H. Communication: A suitable means of communication (telephone, two-way radio, etc.) shall be available at the facility.
- I. Inspections: All land, buildings, facilities and equipment used in the disposal, transfer, or processing of solid waste must be available for inspection by the Director at any time. Failure to allow an inspection will be sufficient grounds for revocation of a facility's license or registrations in accordance with § 1.8(H) of this Part and/or issuance of a Notice of Violation with Administrative Penalty.
- J. Endangered Species: No facility or practice shall cause or contribute to the taking of any endangered or threatened species pursuant to the Endangered Species Act, 16 U.S.C. § 1531 *et seq.*, and/or the regulations adopted to implement such Act. The facility or practice shall not cause or contribute to the destruction or adverse modification of the critical habitat of endangered or threatened species.
- K. Dust Control: The operator must take suitable measures at all times to control dust at the facility, access roads to the facility and all other areas related to the facility's operation. This may be accomplished by spraying small amounts of water over the dust producing area and/or by the application of suitable chemicals or paving materials on access roads.
- L. Control of Litter: Measures must be taken to eliminate the scattering of refuse. The operator shall provide for routine maintenance and general cleanliness of all areas related to the facility's operation.
- M. Safety Provisions:
 - 1. General: The facility shall be designed, operated and maintained in such a manner as to protect the health and safety of users of the facility and personnel associated with the operation of the facility, and persons in close proximity to the facility.
 - 2. Bird Hazard shall mean an increase in the likelihood of bird/aircraft collisions that may cause damage to the aircraft or injury to its occupants.
 - 3. The facility shall be designed, operated, and maintained so as not to pose a bird hazard to aircraft.
- N. Operating and Engineering Plans: A facility shall be operated in conformity with its approved operating and engineering plans. Variances from such plans shall be permitted only after prior written approval from the Director.
- O. Closure Procedure:

1. The facility must notify the Department at least three (3) months prior to the anticipated date that closure operations are to begin.
 2. The facility must implement the approved closure plan.
 3. Requests for deviations from previously approved closure plans shall be in writing, and written approval from the Department must be obtained prior to implementation.
 4. After the closure plans have been fully implemented, the Department shall be notified so that an inspection may be made by Department personnel. A list of the deficiencies, if any, will be returned to the owner of the facility. A final inspection will be required after all deficiencies are corrected.
 5. A professional engineer registered in the State of Rhode Island must certify that the facility is properly closed in accordance with the approved closure plan.
- P. Buffer Zones: The facility shall be required to maintain a buffer zone area that serves to mitigate nuisance impacts such as dust, litter, odor, and noise from the facility to human activities. The buffer zone must be an area of undeveloped vegetated land retained in its natural undisturbed condition, or created to resemble a naturally occurring vegetated area, or approved equal, that is not used for any facility operations. The buffer zone may be utilized for vegetated drainage controls such as swales or storage ponds.
- Q. Active Gas Collection System: Any Solid Waste Management Facility that stores waste materials containing gypsum on site for more than three (3) months shall install and maintain an active gas collection system approved by the Department.

1.10 Existing Organic Waste Recycling Facilities and Solid Waste Management Facilities

- A. Note: § 1.10 of this Part does not apply to Small-Scale Composting Operations.
- B. General Applicability: Existing Organic Waste Recycling Facilities and Solid Waste Management Facilities shall comply with the provisions of these Rules and Regulations on and after the effective date, except for the following:
1. Existing sanitary landfills shall comply with §§ 2.1.8(B)(8), (9), and (10) of this Subchapter for the placement of new groundwater monitoring wells. Water quality sampling and analysis must be performed in accordance with §§ 2.1.8(B)(11) and 2.1.8(D) of this Subchapter. Existing sanitary landfills must revise their facility operating plans to comply with these rules within (6) months of the effective date.

2. Existing sanitary landfills shall comply with §§ 2.1.9 and 2.2.12 of this Subchapter and § 1.9(O) of this Part relating to closure of the facility. A revised closure plan in compliance with these rules must be submitted at the time of the facility's next license renewal date. An existing sanitary landfill that closes prior to its next license renewal date may do so in accordance with its existing approved closure plan.
 3. Existing sanitary landfills shall continue to comply with its existing approved operating plan and with the General Operating Standards described in § 1.9 of this Part and with the Sanitary Landfill Operating Standards described in § 2.3 of this Subchapter, except for § 2.3.2 of this Subchapter. Existing sanitary landfills may continue to operate within the 200-foot buffer rule only in areas approved in their existing license and operating plan.
 4. All lateral expansions into unfilled areas that have also been approved for landfilling in a facility's existing license and operating plan must comply with the liner requirements described in §§ 2.1, 2.2, and 2.3 of this Subchapter. These liner requirements apply to the placement of wastes in any unfilled licensed areas after October 9, 1993, as required by 40 C.F.R. §§ 257 and 258 (2017), incorporated above at § 1.3(A) of this Part.
- C. Currently Licensed or Registered Facilities: Operators of all Solid Waste Management Facilities or Organic Waste Recycling Facilities which are operating pursuant to a license or registration shall comply with these Rules and Regulations within six (6) months of the effective date, except as noted in § 1.10(B) of this Part, however, that if there is less than six (6) months time between the effective date of these Rules and Regulations and the expiration of said license or registration, the operator shall have an additional ninety (90) days beyond said expiration date to comply with these Rules and Regulations.
- D. Other Existing Facilities: Operators of Solid Waste Management Facilities or Organic Waste Recycling Facilities which are operating pursuant to R.I. Gen. Laws § 42-35-14(c), or by agreement with or orders of the Department, or which have applied but have not yet received a license or registration for the current year during which these Rules and Regulations take effect shall have six (6) months from the effective date of these Rules and Regulations to comply.
- E. Existing Rules and Regulations: Where operators of existing facilities are given time to comply with the provisions of these Rules and Regulations pursuant to §§ 1.10(B), (C), and (D) of this Part, such operators shall continue to operate the facility in compliance with the provisions of this Subchapter and any licenses, approvals, or orders issued prior to the effective date of these Rules and Regulations.

1.11 New Organic Waste Recycling Facilities or Solid Waste Management Facilities:

Persons proposing new Organic Waste Recycling Facilities or Solid Waste Management Facilities or expansion or modification of existing facilities shall comply with these Rules and Regulations.

1.12 Procedures for Approval or Denial of Variances

- A. Application for Variance: The application for a license, license renewal, registration, registration renewal or other approval under these Rules and Regulations may include or be amended to include a request for a variance from the provisions of this Subchapter. Such request for a variance shall be in writing and signed by the owner and operator of the facility, and a registered professional engineer.
- B. Review by Department: The Director, through the Office of Waste Management, shall evaluate each request for a variance. Such variance may be granted provided that the Director finds that such variance will not be contrary to the purposes and policy expressed in §§ 1.1 of this Part and that alternative methods proposed by the operator fulfill the purposes of the rule from which a variance is requested. The Director may require a public hearing prior to approving any variance where a substantial question exists as to the environmental or public health impacts of such variance. Denial of such variance may be appealed in accordance with the procedures delineated below.

1.13 Opportunity for Hearing

- A. Denials: Any person whose application for a registration, registration renewal, license, license renewal, other approval, or a variance has been denied by the Department, acting through the Office of Waste Management, may appeal to the Administrative Adjudication Division for review of the decision on which the denial is based.
- B. Violations: Any person who has been issued a notice of violation of any of the provisions of these Rules and Regulations, may request a hearing from the Department's Administrative Adjudication Division, subject to the provisions of R.I. Gen. Laws §§ 42-17.1-2(21) and 42-17.7-9.
- C. Time of Filing: All requests for a hearing shall be made in writing and must be filed with the clerk of the Administrative Adjudication Division within twenty (20) calendar days of receipt of any contested enforcement action. All license and registration appeals must be filed with the clerk of the Administrative Adjudication Division within thirty (30) calendar days of receipt of the contested action.

- D. Hearings and Administrative Procedures: Pursuant to the authority granted to the Department in R.I. Gen. Laws Chapters 42-17.1, 42-17.7, and 42-35, hearings and administrative procedures shall conform to Part 20-00-1 of this Title, "Administrative Rules of Practice and Procedure for the Department of Environmental Management".

1.14 Fees

A. General Information:

1. This Rule has been prepared pursuant to R.I. Gen. Laws § 23-18.9-9(a), (b), and (c). Each application for a new or renewal license or registration to construct and operate a Solid Waste Management Facility or Organic Waste Recycling Facility, must include a fee in accordance with the following schedule:

Facility	Application Fee	Renewal Fee	License/Registration Duration
Lined Solid Waste Landfill	\$100,000.00	\$15,000.00	3 years
Existing Unlined Solid Waste Landfill	---	\$3,000.00	3 years
Transfer Collection or Collection Station	\$10,000.00	\$3,000.00	3 years
Resource Recovery Facility Solid Waste Incinerator	\$100,000.00	\$15,000.00	3 years
Medical Waste Incinerator	\$20,000.00	\$10,000.00	3 years
Petroleum Contaminated Soil Processing	\$20,000.00	\$10,000.00	3 years

Facility			
Waste Tire Storage and Recycling Facility	\$50.00	\$25.00	1 year
Construction and Demolition Debris Facility	\$10,000.00	\$3,000.00	3 years
Medium-Scale Composting Facility	Not Applicable	Not Applicable	Not Applicable

B. Additional Compost Facility Fees:

1. Product Fee - The composter shall also be required to register each separately identified products produced in accordance with R.I. Gen. Laws § 2-22-5. The registration shall be accompanied by a fee of fifty dollars (\$50.00) per product. All product registrations expire on December 31st of each year. Agricultural Composting Facilities and municipally owned composting facilities shall be exempt from the payment of the product fees described above.
2. Penalties for Violations - Any person not in compliance with any provision of these Rules and Regulations for the compost facility fees in §§ 1.13(A) and (B) of this Part shall be subject to a penalty pursuant to R.I. Gen. Laws § 2-22-10.

C. Multiple Operations at One Facility - Facilities that perform multiple operations shall apply for but may not be required to pay for separate licenses. A disposal facility, such as a landfill or incinerator, that includes recycling operations as part of its operating plans, would be required to pay for a license for a landfill or incinerator only. A transfer station that includes recycling operations as part of its operating plans would be required to pay for only a transfer station license. Two or more independently staffed facilities operating on the same site would require separate licenses for each independent facility, as well as both fees.

D. Fees do not apply to Small Scale Composting Operations and Medium Scale Composting Facilities.

1.15 Solid Waste Management Facilities, Organic Waste Recycling Facilities or Activities Located within the Environmental Management District (EMD)

A. Reserved

B. General Information:

1. Applicability: This section shall apply to all Solid Waste Management Facilities, Organic Waste Recycling Facilities or activities regulated pursuant to R.I. Gen. Laws § 23-18.9-1 *et seq.* that are undertaken within the area known as the Environmental Management District. The Department may at its sole discretion require facilities or activities in the vicinity of the Environmental Management District to comply with the onsite and offsite monitoring requirements pursuant to these regulations.
2. Onsite Monitoring:
 - a. Currently Licensed or Registered Facilities: All existing facilities shall submit air and water monitoring plans to the Department for approval within ninety (90) days after the Effective Date of these regulations. In addition, at the time of license or registration renewal, all facilities shall include a monitoring plan as part of their renewal application.
 - b. New Facilities: New facilities shall submit to the Department for approval air and water monitoring plans as part of their license or registration application.
 - c. Solid Waste Management Activities and Organic Waste Recycling Activities: Any person who processes, treats or disposes of solid waste or recycles Organic Waste Materials within or in the vicinity of the Environmental Management District shall submit to the Department air and water monitoring plans for the Department's approval.
 - d. Implementation: All facilities and persons shall implement their approved monitoring plan within thirty (30) days of approval by Department.
 - e. Notification: The facility or person shall provide written notice to the Department at least one week prior to each monitoring event.

- f. Duration: Onsite monitoring plans shall be implemented by the facility(s) or persons until notified in writing by the Department.
 - g. Modifications: Any modifications of plans shall be submitted in writing to the Department and shall require written approval from the Department prior to implementation. The Department also reserves its right to require plan modification by the facility or person as deemed necessary.
- 3. Offsite Monitoring:
 - a. Any facility subject to the offsite monitoring requirement shall develop a monitoring plan within thirty (30) days of notification by the Department. Offsite monitoring plans must be implemented within thirty (30) days of Department approval.
 - b. Offsite monitoring plans shall be implemented by the facility(s) or persons until notified otherwise in writing by the Department. Termination of offsite monitoring shall only be authorized after demonstration to the satisfaction of the Department that all impacts and adverse effects identified in the evaluation of the onsite data have been corrected.
- 4. Evaluation: Data collected under the onsite and offsite ambient air and water monitoring plans shall be evaluated by both the Department and Health. The Department of Health shall provide a written evaluation of these data to the host community(s), the facility(s), any oversight council or organization that focuses on the Environmental Management District, and any members of the public who request said evaluation.

C. Onsite Monitoring Plan Requirements:

- 1. General Requirements: All monitoring plans shall address air, surface water, and groundwater quality concerns at each facility, solid waste management activity or organic waste recycling activity. In addition all monitoring plans shall include a site plan and a radius plan with the information required herein, in addition to information required in accordance with the Solid Waste Regulations for that type of facility or activity.
 - a. All monitoring plans shall include detailed sampling and analysis criteria for both water and air monitoring. Said plans shall include, but not be limited to, a list of parameters to be monitored, sampling frequency, analytical methods including detection limits, and sampling locations.

- b. Site Plans: In addition to the site plan requirements in the Solid Waste Regulations relating to the type of operation or activity, all site plans shall show the topography of the facility or activity location and the locations of all activities and all operations conducted onsite. The site plan shall include the location of onsite buildings, paved areas, areas used for outdoor storage and/or disposal, and the location of all existing and/or proposed control measures used to reduce pollutants.
- c. Radius Plans: In addition to the radius plan requirements in the Solid Waste Regulations relating to the type of operation, all radius plans shall show the topography within one mile of the facility or activity location as illustrated in the appropriate US Geological Survey Topographic Map, 7.5 minute series, and the location of all activities and operations conducted onsite. The radius plan shall also show the location of any waterbodies, including wetlands, located both onsite and offsite within a radius of one-half mile of the site, and the location of residential and commercial areas within a one mile radius of the perimeter of the site.
- d. Monitoring Reports: Monitoring reports for each air or water sampling event shall be submitted by the facility or person to the Department within 45 days of the monitoring event unless directed otherwise by the Department. The facility or person shall notify the Department by telephone within 24 hours of receipt of the data if results warrant immediate action, and follow up in writing within seven (7) days of receipt of the data by the facility or person.
 - (1) Four (4) copies of the monitoring report shall be submitted to the Department in a hard copy report format that includes a detailed discussion of the sampling event, analytical results, and evaluation of data results.
 - (2) Reports of water data shall include maps clearly indicating sampling locations, location and nature of site activities during the sampling period, and any other pertinent information.
 - (3) The discussion of water data results shall incorporate and evaluate information from all groundwater and surface water sampling conducted at the site, including sampling required by other program or regulations, so as to produce a comprehensive assessment of the potential contribution of pollutants from the facility or activity.

- (4) Reports of air data shall include maps clearly indicating sampling locations, and shall include information about meteorological conditions and locations and nature of site activities during the sampling period, and any other pertinent information.
- (5) The facility or person shall submit reports upon request to the Department, in an electronic format to be determined by the Department.
- (6) All plans must be approved by the Department prior to implementation.

2. Air Monitoring Requirements: In addition to the general monitoring plan requirements set forth above, the air section of the monitoring plan shall include, but may not be limited to, the requirements set forth below:

- a. A list of air pollutants including substances which may be emitted from the facility or activity that have been classified by the EPA as Hazardous Air Pollutants or Criteria Air Pollutants or by the Department as Air Toxics. In addition, the plan shall identify all indicator gases to be sampled such as, but not limited to, methane for landfills.
- b. Landfills and C&D Processing Facilities: Air monitoring at landfills and facilities that process construction & demolition (C&D) debris shall be conducted at least quarterly (four times per year) at a minimum of four locations: at the facility's upwind perimeter; at two locations downwind of major activities on the facility's property, including one location immediately downwind of the active working face, processing area or storage area; and at the facility's downwind perimeter.
 - (1) In addition, sampling shall include, at a minimum, a quarterly survey of hydrogen sulfide concentrations at representative locations onsite and along the perimeter of the facility using a direct reading instrument.
 - (2) The air monitoring section of the plan shall also provide for an increased monitoring frequency if modeling or monitoring demonstrates exceedances of the Department's "Air Pollution Control Regulation No. 22 - Air Toxics" "Acceptable Ambient Levels" (AALs) or other health criteria, or by objectionable odor violations. Increased monitoring

frequency requirements shall include continuous monitoring at the perimeter of the facility.

- (3) The air monitoring frequency may revert to quarterly if the exceedances or odors that triggered the increased frequency do not recur in a six-month period, and if no other trigger situations have occurred in that time period.

c. All other Solid Waste Management Facilities, Organic Waste Recycling Facilities or Activities: Air monitoring plans for other types of Solid Waste Management Facilities, Organic Waste Recycling Facilities or activities within or in the vicinity of the Environmental Management District shall provide for monitoring for pertinent pollutants and be conducted at least annually upwind and downwind of the facility. The Department may require, at its discretion, a greater frequency and greater number of locations if warranted by the nature of the facility.

- (1) Air monitoring at the above facilities or activities may be reduced with the approval of the Department if no exceedances of AALs or other health criteria are observed in two consecutive sampling rounds, the type and magnitude of solid waste management activities or organic waste recycling activities at the facility have remained constant, and no objectionable odors are observed by the Department during that period.
- (2) Sampling frequency may be increased if objectionable odors are observed by the Department or exceedances of AALs or other health criteria are measured or modeled from the results of sampling.
- (3) Any increase in sampling frequency may then be reduced if the situation does not recur in two consecutive test rounds and if none of the conditions listed in § 1.14(C)(2)(c)((2)) of this Part has occurred in that time period.

3. Water Monitoring Requirements: In addition to the general monitoring plan requirements set forth above, the water section of the monitoring plan shall address, but may not be limited to, the requirements set forth below:

- a. The water section of the monitoring plan shall describe how the facility or person shall evaluate and quantify the contribution of

pollutants to the surface water from the site, including both point and non-point contributing sources.

- b. Groundwater monitoring shall be required and shall include a sufficient number of wells to properly determine groundwater flow on the site and to properly characterize the hydrogeology of the site and surrounding area where required.
- c. The list of water pollutants to be sampled shall include, but not be limited to, potential air (where applicable) and water pollutants associated with the activities conducted at the site; the list of parameters the facility is required to monitor and analyze for by any other state and federal program (including but not limited to a list of parameters for which the waterbody is known to be impaired as identified in the Rhode Island 303(d) List of Impaired Waters); and any other identified surface or groundwater parameters of concern.
- d. The surface water monitoring plan shall include a description of wet weather sampling procedures that shall be implemented at least once annually. The wet weather sampling events shall be collected during a storm event that follows an antecedent dry period of at least three days. The storm event must be at least 0.5 inches per twenty-four hours in magnitude.
- e. Quarterly water monitoring at the onsite location(s) shall be the minimum for all facilities or activities except where additional requirements exist. The Department may require more frequent monitoring based upon, but not limited to, verified complaints, enforcement actions, increase in pollutant loading or groundwater criteria, or other regulatory requirements. Additional requirements may also include monitoring of waterbody sediment, macroinvertebrate community, and/or fish tissue. Any increased monitoring that is required may be reduced if indicated by at least two acceptable monitoring results, or submitting and implementing a corrective action plan to the satisfaction of the Department.

D. Plan Review: The following criteria shall be utilized by the Department in review of submitted monitoring plans and reports.

- 1. References: In the evaluation of the monitoring plans, the Department may consider, but is not limited to, the following: any impacts that may be injurious to human, plant, animal, or aquatic life, or cause damage to property or which unreasonably interfere with the enjoyment of life and property; the Rhode Island Air Pollution Control Regulations; the Ambient

Air Quality Standards; the Rhode Island Rules and Regulations for Solid Waste Management Facilities and Organic Waste Recycling Facilities; the Rhode Island Rules and Regulations for the Investigation and Remediation of Hazardous Material Releases; Rhode Island Water Quality Regulations; Rhode Island Pollutant Discharge Elimination System Regulations; Rules and Regulations for Governing the Administration and Enforcement of the Fresh Water Wetlands Act; Rules and Regulations for Groundwater Quality; the Rhode Island Soil Erosion and Sediment Control Handbook, State of Rhode Island Stormwater Design and Installation Standards Manual, the Technical Support Document for Water Quality-based Toxics Control, March 1991, EPA/505/2-90-001; Water Quality Standards Handbook, 2nd. Ed., August 1994, EPA-823-B-94-005a; and any other relevant standards, guidance, technical reference materials, or policies identified by the Department.

2. Decisions: The Department may decide on the adequacy of the monitoring plan by approving the plan, denying the plan, or approving the plan with conditions.

E. Public Notice Procedures: The following public notice procedures shall be followed prior to final onsite monitoring plan approval by the Department.

1. General:

- a. Currently Licensed or Registered Facilities: For all existing facilities, public notice shall be published in accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-1 *et seq.*, after the air and water monitoring plan is reviewed and found to be substantially complete by the Department. The Department shall hold a public hearing when so requested in accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-1 *et seq.*
- b. New Licenses: All new Solid Waste Management Facility licenses or Organic Waste Recycling Facility licenses shall follow the public hearing process defined by state statute.
- c. New Registrations: For all new Organic Waste Recycling Facility registrations, public notice shall be published in accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-1 *et seq.*, after the air and water monitoring plan is reviewed and found to be substantially complete by the Department. The Department shall hold a public hearing when requested in accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-1 *et seq.*

- d. Solid Waste Management Activities or Organic Waste Recycling Activities: For all solid waste management activities or organic waste recycling activities, public notice shall be published in accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-1 *et seq.*, after the air and water monitoring plan is reviewed and found to be substantially complete by the Department. A written copy of the proposed notice shall be submitted to the Department by the facility for review and approval prior to publication. The Department shall hold a public hearing when so requested in accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-1 *et seq.*
 - 2. Distribution: All facilities or persons shall provide written copies of the monitoring plan for distribution to the appropriate town halls, town libraries, the Department and Health. The facilities or persons shall also provide an electronic copy of the monitoring plan to the Department and Health to facilitate distribution and for publication on the Department and Health websites. Each facility or person shall pay for the costs of distribution, public notice, and stenographic services associated with the public notice and hearing procedures for their facility.
 - 3. Petitions and Appeals: Petitions and appeals shall be submitted in accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-1 *et seq.*
- F. Offsite Monitoring Plan Requirements: The Offsite monitoring plan shall address, but may not be limited to, the requirements set forth below.
- 1. General:
 - a. The development and implementation of offsite monitoring will be in accordance with the R.I. Gen. Laws § 23-18.9-14.
 - b. If, upon the evaluation of the results of the onsite monitoring, the Department and health Directors jointly determine that any facility or activity within or in the vicinity of the Environmental Management District is causing emissions of air or water pollutants at levels that may cause adverse health impacts, create objectionable or nuisance odors, or otherwise adversely impact human health or the environment, either individually or in conjunction with other sources in the surrounding community(s), the Department Director, in consultation with the health Director, shall require the facility(s) or activity(s) to develop and implement offsite ambient air and/or water monitoring plans within and in the vicinity of the Environmental

Management District and for areas impacted by the facilities as determined by Department or health.

- c. The offsite monitoring plans shall include all the requirements set forth in § 1.14(B) of this Part.
2. Any facility or activity subject to the offsite monitoring requirement shall develop the monitoring plan within thirty (30) days of notification by the Department. Offsite monitoring plans must be implemented within thirty (30) days of Department approval.
3. Offsite monitoring plans shall address all impacts and adverse effects identified in the evaluation of the onsite data. The plan shall be adequate to evaluate impacts to human health and the environment in the vicinity of the Environmental Management District. Onsite monitoring shall continue during the development and implementation of the offsite monitoring plan.
4. Plan Review: The criteria specified in § 1.14(C) of this Part shall be utilized by the Department in reviewing submitted offsite monitoring plans and reports.
5. Duration: Offsite monitoring plans shall be implemented by the facility(s) or persons until notified in writing by the Department. Termination of offsite monitoring shall only be authorized after demonstration to the satisfaction of the Department that all impacts and adverse effects identified in the evaluation of the onsite data have been corrected.
6. Access to Offsite Properties:
 - a. The facility or person shall use best efforts to secure access to offsite properties owned or controlled by persons other than the facility owner for implementation of the approved offsite monitoring plan.
 - b. If any access required to conduct monitoring is not obtained within 45 days of the date the Department notifies the Facility or person in writing that offsite monitoring shall be performed, the facility or person shall promptly notify the Department in writing, and shall include in that notification a summary of the steps the facility or person has taken to attempt to attain access.
 - c. If the facility or person is unable to obtain access, the Department may require the next best alternative location on accessible property, public or private.

G. Enforcement:

Any Facility or person not complying with any of the above requirements may be subject to enforcement action at the discretion of the Department including the assessment of penalties or other action pursuant to R.I. Gen. Laws § 23-18.9-1 *et seq.* The Department may also prepare and implement onsite and/or offsite monitoring plans for a non-compliant facility or person. Noncompliant facilities or persons shall be responsible for and required to reimburse the Department for all costs, including interest, incurred in developing and implementing such a plan(s). Failure to develop and/or implement such plans, or reimburse the Department for preparing and implementing such plans, shall be grounds for suspension, denial, and/or revocation of the facility license or registration.

1.16 Management of Street Sweepings in Rhode Island

- A. Street Sweepings shall mean sand that may be mixed with salt used on streets, roads, highways, and parking areas, both public and private, during winter storm operations and that is ultimately swept or cleaned from these areas.
- B. Acceptable Uses for Street Sweepings: Street sweepings are exempt from the Refuse Disposal Act, R.I. Gen. Laws § 23-18.9-1 and the Rules and Regulations promulgated thereto and may be reused in the following ways without a requirement for analytical testing of petroleum hydrocarbon content, Toxicity Characteristic Leaching Procedure, and total lead content:
1. Landfill cover material (may require screening);
 2. Road base or any base course application that will be covered with an asphalt or concrete layer;
 3. Backfill for public works construction projects such as drain pipes, culverts, and other drainage structures;
 4. Excess sand from resurfacing projects may be mixed with salt and reused for winter storm operations;
 5. Mixed with new or virgin sand and salt and reapplied during winter storm operations. Any use of street sweepings beyond those listed above are subject to the requirements of the Refuse Disposal Act, R.I. Gen. Laws § 23-18.9-1, and the Rules and Regulations promulgated pursuant thereto.
- C. Unacceptable Uses for Street Sweepings: Street sweepings may not be used as an unrestricted clean fill that may be placed in areas that will expose the street sweepings to human contact. This would include fill on residential properties,

public parks or playgrounds. Street sweepings may not be used as a fill in environmentally sensitive areas such as near pristine waterways, drinking water watersheds, wellhead protection areas, areas with groundwater classified as GAA, and areas within 200 feet of a private drinking water well or in any other manner that would be inconsistent with state or federal law or regulation. In some instances, street sweepings may be used as an unrestricted clean fill if analytical testing for petroleum hydrocarbon content, Toxicity Characteristic Leaching Procedure, and total lead content prove that the street sweepings will not be a potential threat to human health or the environment. A sampling plan and analytical results must be submitted to the Department's Office of Waste Management for review and approval of applications for reuse of street sweepings as an unrestricted clean fill. Sampling plans and analytical results will be reviewed on a case by case basis.

250-RICR-140-05-1

TITLE 250 - DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 140 - WASTE & MATERIALS MANAGEMENT

SUBCHAPTER 05 - SOLID WASTE

PART 1 - Rules and Regulations for Solid Waste Management Facilities and Organic Waste Management Facilities (250-RICR-140-05-1)

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Editorial Note: This Part was filed with the Department of State prior to the launch of the Rhode Island Code of Regulations. As a result, this digital copy is presented solely as a reference tool. To obtain a certified copy of this Part, contact the Administrative Records Office at (401) 222-2473.