

**RHODE ISLAND GOVERNMENT REGISTER**  
**PUBLIC NOTICE OF PROPOSED RULEMAKING**

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**AGENCY:** Department of Environmental Management

**DIVISION:** Office of Waste Management

**RULE IDENTIFIER:** 250-RICR-140-10-1

**REGULATION TITLE:** Rules and Regulations for Hazardous Waste Management

**RULEMAKING ACTION:** Direct Final

**Direct Final:** If no formal objection is received on or before Monday, April 16, 2018 the Department of Environmental Management will file the amendment without opportunity for public comment.

**TYPE OF FILING:** Amendment

**TIMETABLE FOR ACTION ON THE PROPOSED RULE:**

**Public Notice:** Friday, March 16, 2018.

**End of Comment Period Date:** Monday April 16, 2018.

**SUMMARY OF PROPOSED RULE:** These rules are intended to protect the public from exposure to hazardous waste by regulating the generation, storage, handling, transportation and treatment of hazardous waste. This is State equivalent of RCRA.

**COMMENTS INVITED:** All interested parties are invited to submit written or oral comments concerning the proposed regulations by **Monday, April 16, 2018** to the addresses listed below.

**ADDRESSES FOR PUBLIC COMMENT SUBMISSIONS:** Mailing Address: RIDEM/Office of Waste Management, ATTN: Mark Dennen, 235 Promenade St., Providence, RI 02908. Email Address: mark.dennen@dem.ri.gov

**WHERE COMMENTS MAY BE INSPECTED:** Mailing Address: RIDEM / Office of Waste Management, 235 Promenade Street, Providence, RI 02908

**PUBLIC HEARING INFORMATION:** In accordance with R.I. Gen. Laws § 42-35-2.8, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within thirty (30) days of this notice.

**FOR FUTURE INFORMATION CONTACT:** ATTN: Mark M. Dennen, Supervising Environmental Scientist, RIDEM / Office of Waste Management, 235 Promenade St, Providence, RI 02908, Phone 401-222-2797 x 7112; Email: mark.dennen@dem.ri.gov.

**SUPPLEMENTARY INFORMATION:**

**Authority for This Rulemaking:**

**Regulatory Findings:** In the development of the proposed [adoption OR amendment OR repeal] consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

**The Proposed Amendment:** RI DEM proposes to amend 250-RICR-140-10-1 as follows: The proposed amendment is a reformatting intended to comply with the 2017 revisions to the Administrative Procedures Act.

Electronic copies of the proposed rulemaking are available at the Secretary of State and DEM's website at the following web addresses:

<http://sos.ri.gov/ProposedRules/>

<http://www.dem.ri.gov/regulations>

250-RICR-140-10-1

## TITLE 250 - DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

### CHAPTER 140 - WASTE AND MATERIALS MANAGEMENT

#### SUBCHAPTER 10 - HAZARDOUS WASTE

PART 1 - Rules and Regulations for Hazardous Waste Management

#### 1.1 Purpose

These Rules and Regulations for Hazardous Waste Management (also referred to hereafter as the Regulations or the Hazardous Waste Regulations) are intended to minimize environmental hazards associated with the generation, transportation, treatment, storage and disposal of hazardous wastes, including the hazardous waste component of mixed radioactive and hazardous waste (mixed waste), the transportation of septage, and the operation of hazardous waste treatment, storage and disposal facilities. They are also designed to promote planning and implementation of hazardous waste treatment, storage and disposal facilities where necessary and desirable.

#### 1.2 Authority

- A. Under the authority of the R.I. Gen. Laws Chapters 23-19.1 and 23-19.4 and particularly [R.I. Gen. Laws §§ 23-19.1-5, 23-19.1-6, 23-19.1-7, 23-19.1-10, R.I. Gen. Laws Chapters 23-24.10, 23-24.12](#) and [R.I. Gen. Laws §§ 23-19.4-1 through 23-19.4-3](#), the following Rules and Regulations are promulgated to administer this chapter, as amended, for the generation, transportation, treatment, storage and disposal of hazardous waste, including the hazardous waste component of mixed waste and the transportation and disposal of septage, and shall supersede all previous Rules and Regulations.
- B. These Rules and Regulations are adopted pursuant to the authority of [R.I. Gen. Laws §§ 23-19.1-7, 23-19.4-3, 23-19.14-18](#) and [42-17.1-2\(s\)](#) and in accordance with the procedures set forth in [R.I. Gen. Laws Chapter 42-35](#).

#### 1.3 Application

The terms and provisions of these Rules and Regulations shall be liberally construed to permit the Department to effectuate the purposes of State law, goals, and policies.

## 1.4 Incorporated Materials

- A. Various federal regulations are incorporated by reference in these Rhode Island regulations. All references to particular numbered section(s) or portion(s) of such numbered section(s) of 40 C.F.R. or 49 C.F.R. means that such numbered section(s) or portion(s) of such section(s) of 40 C.F.R. and 49 C.F.R. is or are incorporated by reference, including any cross-references to additional applicable regulations, notes, appendices, and diagrams, except where additions, modifications, or exceptions are specifically stated. When a federal regulation has been incorporated by reference with State additions, modifications, or exceptions, the governing requirements include the State changes in addition to any unchanged portions of the incorporated federal regulation. Any cross references in other State regulations to a federal regulation that has been incorporated with State changes are to that regulation with the State changes. When federal regulations are incorporated by reference, State terms are substituted for federal terms to the extent provided in § 1.5 of this Part (definitions), of Administrator/Regional Administrator and EPA/United States Environmental Protection Agency/U.S. Environmental Protection Agency/Agency, in addition to the other State changes specified elsewhere in these Rhode Island Hazardous Waste Regulations. The revision dates of the federal regulations that are incorporated by reference are specified in § 1.5 of this Part (definitions) of 40 C.F.R. and 49 C.F.R. The materials incorporated in this Part are from the July 1, 2013 C.F.R. and do not include later amendments to or editions of the incorporated material except for 40 C.F.R. § 261.4(a)(26) from the 2017 C.F.R.
1. Other references may be incorporated in-line in these regulations as necessary.
- B. 40 C.F.R. §§ 260–261, 263–265, 266 (except for subpart H), 270, 273, and 124 are incorporated by reference in their entirety, except as otherwise noted in these Rules and Regulations. Rhode Island has not adopted the provisions of 40 C.F.R. § 266, subpart H, relative to burning hazardous waste in boilers and industrial furnaces, nor has it adopted the provisions of 40 C.F.R. § 268. Instead, those provisions are administered in Rhode Island by EPA. Rhode Island has not adopted the reduced requirements of 40 C.F.R. § 267, relative to operating under standardized permits. Those reduced requirements do not apply in Rhode Island. Rhode Island has adopted its own regulations regarding hazardous waste generators in § 1.7 of this Part. These generator regulations apply in lieu of the federal requirements in 40 C.F.R. § 262, and 40 C.F.R. § 261.5, except to the extent that § 1.7 references particular § 262 or § 261.5 requirements. Rhode Island has adopted its own regulations regarding used oil management in § 1.16 of this Part. These used oil regulations apply in lieu of the federal requirements in 40 C.F.R. § 279, except to the extent that § 1.16 of this Part particular § 279 requirements. Any term used within these Rules and Regulations not specifically defined within § 1.5 of this Part shall be defined as in the Federal regulations. Federal statutes and regulations that are cited in 40 C.F.R. §§ 260 through 273

and 124, that are not adopted by reference shall be used as guidance in interpreting the Federal regulations in 40 C.F.R. §§ 260 through 273 and 124.

- C. 40 C.F.R. §§ 260 and 261 are incorporated by reference in their entirety except as provided below and as otherwise noted in these regulations:
1. 40 C.F.R. § 260.1(a) - delete “265” and replace with “266”.
  2. 40 C.F.R. § 260.2(a) – delete “265” and replace with “266”.
  3. 40 C.F.R. § 260.3 – delete “265” and replace with “266”.
  4. In 40 C.F.R. § 260.10 delete the definition of Facility, Hazardous secondary material, Hazardous secondary material generated and reclaimed under the control of the generator, Hazardous secondary material generator, Intermediate facility, Land-based unit, Performance track member facility, and Transfer station. See § 1.6 of this Part for the State definitions of some of these terms, which should be used in place of the non-adopted federal definitions. There are no State substitutions for some other deleted definitions as they relate to federal provisions not adopted by Rhode Island.
  5. In 40 C.F.R. § 260.10 delete the definition of “Existing hazardous waste management (HWM) facility or existing facility” and replace with: “Existing hazardous waste management (HWM) facility or existing facility means a hazardous waste management facility that is in operation on or before November 19, 1980.”
  6. In 40 C.F.R. § 260.10 delete the definition of “New hazardous waste management (HWM) facility or new facility” and replace with: “New hazardous waste management (HWM) facility or new facility means a hazardous waste management facility that began operation after November 19, 1980.”
  7. Replace definition of “Designated Facility” with the definition found in § 1.5 of this Part.
  8. In 40 C.F.R. § 260.30 heading, delete the words “Non-waste determinations and”
  9. Delete § 260.30(d) and (e).
  10. In 40 C.F.R. § 260.33 heading, delete the words “or for non-waste determinations”.
  11. In 40 C.F.R. § 260.33 introduction, delete the words “or applications for non-waste determinations”.

12. In 40 C.F.R. § 260.33(a), delete the words “or non-waste determinations”.
13. Delete 260.33(c), 260.34, 260.42, and 260.43. All of the provisions not adopted in this §§ 1.4(C)(8) through (13) of this Part relate to determinations under the EPA Definition of Solid Waste Rule (DSW Rule), which Rhode Island has not adopted.
14. Revise 40 C.F.R. § 261.1(c)(4) to read “A material is reclaimed if it is processed to recover a usable product, or if it is regenerated. Examples are recovery of lead values from spent batteries and regeneration of spent solvents.” The additional sentences in 40 C.F.R. § 261.1(c)(4) that Rhode Island is not adopting relate to DSW Rule exclusions.
15. In 40 C.F.R. § 261.2(a)(1), delete the words “or that is not excluded by a non-waste determination under §§ 260.30 and 260.34.”
16. Delete § 261.2(a)(2)(ii).
17. Revise 40 C.F.R. § 261.2(c)(3) to read “Reclaimed. Materials noted with a “\*” in column 3 of Table 1 are solid waste when reclaimed (except as provided under 40 C.F.R. § 261.4(a)(17). Materials noted with a “-“ in column 3 of Table 1 are not solid waste when reclaimed.”
18. Revise the third column of 40 C.F.R. § 261.2(c) Table 1 to read “Reclamation (§ 261.2(c)(3)) (except as provided in 261.4(a)(17) (references to DSW Rule provision not included) for mineral processing secondary materials)”.
19. Revise 40 C.F.R. § 261.4(a)(14) to read “Shredded circuit boards being recycled provided that the Department is notified in writing about this activity and that they are:”
20. Delete 40 C.F.R. §§ 261.4(a)(23), 261.4(a)(24), and 261.4(a)(25) (which relate to DSW Rule exclusions not being adopted by Rhode Island).
21. Add 40 C.F.R. § 261.4(a)(26) and the associated definitions contained in the 2017 40 C.F.R. that contains a conditional exclusion from the definition of hazardous waste for solvent-contaminated wipes that are cleaned and reused are incorporated here as well. These provisions are incorporated here as well, with the following revisions:
  - a. No alternative test methods for determining that there are no free liquids are allowed in Rhode Island.
  - b. Solvent contaminated wipes may be sent only to laundries and dry cleaners in Rhode Island or in another State that has adopted this exclusion.

22. Rhode Island is not incorporating and does not recognize the conditional exclusion from the definition of hazardous waste for solvent-contaminated wipes that are disposed in [40 C.F.R. 261.4\(b\)\(18\)](#). Add at the end of 40 C.F.R. § 261.4(b)(1): "The provisions of the household hazardous waste exemption apply, but are limited by §§ 1.7.1(B)(1)(b) and (c), 1.12 and 1.14(A)(5) of this Part."
23. Delete 40 C.F.R. § 261.4(b)(7)(ii)(F). Manufactured gas plant waste is instead regulated if it meets the definition of a hazardous waste unless it meets the requirements specified in § 1.4(C)(29) of this Part and delete 40 C.F.R. § 261.4(b)(10).
24. In 40 C.F.R. § 261.4(e)(3)(iii), delete "in the Region where the sample is collected".
25. Delete 40 C.F.R. § 261.5 and replace with the following: 40 C.F.R. § 261.5 Special requirements for hazardous waste generated by CESQGs.
  - a. A conditionally exempt small quantity generator (CESQG) is defined in § 1.5 of this Part.
  - b. Requirements applicable to CESQGs are specified at §§ 1.7.1 through 1.7.12 and § 1.7.15 of this Part.
26. Delete 40 C.F.R. §§ 261.5(h) and 261.5(j).
27. Delete the following rules related to cathode ray tubes: 40 C.F.R. §§ 261.4(a)(22), 261.39, 261.40 and 261.41. These cathode ray tube exemptions and provisions do not apply in Rhode Island; instead, cathode ray tubes are subject to the § 1.14 of this Part universal waste regulations.
28. In 40 C.F.R. § 261.9, add the following:
  - a. Used electronics as described in § 1.14.2 and defined in § 1.5 of this Part;
  - b. Silver-containing photo fixing solutions as described in § 1.14.3 and defined in § 1.5 of this Part.
29. In 40 C.F.R. § 261.24(a) delete the words "(except manufactured gas plant waste)" and replace with "except manufactured gas plant remediation waste that is managed under a Department approval issued in accordance with applicable RIDEM Rules and Regulations for the Investigation and Remediation of Hazardous Material Releases, and that is not land disposed".
30. Delete 40 C.F.R. § 261 Subpart H (part of DSW Rule not adopted).

- D. 40 C.F.R. § 263 is incorporated by reference in its entirety except as provided below and in § 1.8 of this Part and as otherwise noted in these regulations.
1. In 40 C.F.R. § 263.12, replace “ten days” with “seventy-two hours (excluding Sundays and federal and Rhode Island legal holidays)”.
  2. Delete 40 C.F.R. § 263.20(h).
- E. 40 C.F.R. § 264 is incorporated by reference in its entirety except as provided in § 1.10 of this Part and as otherwise noted in these regulations.
- F. 40 C.F.R. § 265 is incorporated by reference in its entirety except as provided below and as otherwise noted in these regulations.
1. Delete 40 C.F.R. § 265.1(c)(8) pertaining to the farmer exemption.
  2. In 40 C.F.R. §§ 265.143(g) and 265.145(g) Where the sentence "If the facilities covered by the mechanism are in more than one Region, identical evidence of financial assurance shall be submitted to and maintained with the Regional Administrator of all such Regions." appears, replace it with the sentence "If the facilities covered by the mechanism are in more than one State, identical evidence of financial assurance shall be submitted to and maintained with the State Agency regulating hazardous waste or with the appropriate Regional Administrator if the facility is located in an unauthorized State."
  3. In 40 C.F.R. §§ 265.191(a) and 265.191(c), compliance in Rhode Island relative to the January 12, 1988 and July 14, 1986 dates, respectively, applies only to a tank system owned or operated by a federal small quantity generator or any tank system (aboveground, onground, inground, or underground) that cannot be entered for inspection. Relative to a tank system that is not owned or operated by a federal small quantity generator and that is a tank system (aboveground, onground, inground, or underground) that can be entered for inspection, "January 12, 1988" and "July 14, 1986" shall be replaced with "December 1, 1992", wherever those dates occur in 40 C.F.R. §§ 265.191(a), and 265.191(c), respectively.
- G. 40 C.F.R. § 266 (except for subpart H) is incorporated by reference in its entirety except as otherwise noted in these regulations.
- H. 40 C.F.R. § 270 is incorporated by reference in its entirety except as provided in § 1.9 of this Part “Issuance, Renewal and Conditions of Facility Permits” and as otherwise noted in these regulations.
- I. 40 C.F.R. § 273 is incorporated by reference in its entirety except as provided in § 1.14 of this Part and as otherwise noted in these regulations.

- J. 40 C.F.R. § 124 is incorporated by reference in its entirety except as provided in § 1.9 of this Part and as otherwise noted in these regulations.

## 1.5 Definitions

- A. Any term used within these regulations not specifically defined within this section shall be defined as in 40 C.F.R. § 260.10, incorporated above § 1.4(B) of this Part.
1. "Aboveground tank" means a tank used to store or process hazardous waste or used oil that is not an underground storage tank as defined in these regulations.
  2. "Active portion" means any portion of a hazardous waste management facility that is being used or has been used in the past to unload, treat, store or dispose of hazardous waste, but does not include the closed portion.
  3. "Acutely hazardous waste" means materials identified in 40 C.F.R. § 261.33(e) and wastes identified in 40 C.F.R. § 261.30(d) and in 40 C.F.R. § 261.11(a)(2).
  4. "Administrator" or "regional administrator" or "assistant administrator" or "assistant administrator for solid waste and emergency response" or "EPA administrator" or "State Director" means as used in the portions of the Code of Federal Regulations that are incorporated by reference, shall mean the Director of the Department of Environmental Management, or his/her designee, except as follows:
    - a. Use of the word "Administrator" or "Regional Administrator" (or "Assistant Administrator" or "Assistant Administrator for Solid Waste and Emergency Response" or "EPA Administrator") in any section of the Code of Federal Regulations that cannot be delegated from EPA to any state, including Rhode Island and that include the following 40 C.F.R. §§ 262, Subpart E and Subpart H and 263, Subpart B regarding exports of hazardous waste; §§ 268.5, 268.6, and 268.42(b) plus 268.44(a-g) regarding land disposal restrictions.
    - b. References to the Administrator or to the Regional Administrator, appearing therein, shall be interpreted as referring to the Director, except for such references in 40 C.F.R. § 260.10 other than its use in the definition of a boiler, in 40 C.F.R. §§ 260.20(b) and 260.22, in 40 C.F.R. § 261.4(f)(1), in 40 C.F.R. § 261.10 and 261.11, in 40 C.F.R. § 262, Subpart E and Subpart H, in 40 C.F.R. § 264.12(a), in 40 C.F.R. § 265.12(a), in 40 C.F.R. § 268.5, in 40 C.F.R. § 268.13, in 40 C.F.R. § 268.40, in 40 C.F.R. § 268.42(b), in 40 C.F.R. § 270.2, in 40 C.F.R. § 270.5, in 40 C.F.R. §§ 270.10(e)(2) and (e)(3), in 40 C.F.R. § 270.10(f)(2), in 40 C.F.R. §§ 270.10(g)(1)(i) and (iii), in 40 C.F.R. §

270.10(f)(3), in 40 C.F.R. § 270.11(a)(3), in 40 C.F.R. § 270.14(b)(20), in 40 C.F.R. § 270.32(b)(2), in 40 C.F.R. § 271.5, in 270.110(h), and in any other section of 40 C.F.R. not adopted by reference or not delegable to the State of Rhode Island.

- c. In §§ 1.9(4)(a) and (b) of this Part, where "Administrator" or "Regional Administrator" does not mean the Director of the Department of Environmental Management, or his/her designee, "Administrator" means the Administrator of the Environmental Protection Agency, or his/her designee, and "Regional Administrator" shall mean the Regional Administrator for the EPA region where the facility is located, or his/her designee.
5. "Architectural paint" means interior and exterior architectural coatings recommended for field application to stationary structures and their appurtenances, to portable buildings, to pavements, or to curbs. This definition excludes adhesives and coatings recommended by the manufacturer or importer solely for shop applications or solely for application to non-stationary structures, such as automobiles, airplanes, ships, boats, and railcars.
  - a. The term architectural paint includes both materials that meet the definition of hazardous waste (i.e. oil based paints and polyurethanes) as well as non-hazardous wastes (i.e. latex paint, water based polyurethanes). The use of the term architectural paint in these regulations is not meant to imply that the materials are or are not hazardous wastes. As with other wastes, such a determination must be made using analysis or generator knowledge as described in § 1.7 of this Part.
6. "Asbestos" means actinolite, amosite, anthophyllite, chrysotile, crocidolite and tremolite.
7. "Base flood" means a flood that has a 1% or greater chance of recurring in any year. The 100 year flood plain means any land that is subject to flooding as the result of a base flood.
8. "Boiler" means that term as defined in 40 C.F.R. § 260.10. However, variances from this definition may be granted by the Director in accordance with the provisions of § 1.6.2 of this Part, the provisions of 40 C.F.R. § 260.32 and the procedures of 40 C.F.R. § 260.33.
9. "Closed portion" means that portion of a facility that an owner or operator has closed in accordance with the approved facility closure plan and all applicable closure requirements.

10. "Closure plan" means the plan prepared for closure in accordance with these Rules and Regulations.
11. "Coastal high hazard area" means the area subject to high velocity waters, including, but not limited to, hurricane wave wash or tsunamis as designated on Flood Insurance Rate Maps (FIRM) as Zone VI-30 (found at <https://msc.fema.gov/portal>).
12. "Community collection center" means a location registered with the Department to accept Household Hazardous Waste and/or hazardous waste from Conditionally Exempt Small Quantity Generators. The Community Collection Center shall include all contiguous land, structures and other appurtenances and improvements on the land used for accepting, storing, consolidating or shipping hazardous waste or used oil.
13. "Community water system" means a system for the provision to the public of piped water for human consumption that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.
14. "Conditionally exempt small quantity generator" or "CESQG" means a person who meets all of the conditions below:
  - a. Generates 220 lbs (100 kg) or less of hazardous waste in a calendar month, and
  - b. Generates 2.2 lbs (1 kg) or less of acutely hazardous waste in a calendar month, and
  - c. Generates 220 lbs (100 kg) or less of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill into or on any land or water, of any acutely hazardous waste in a calendar month, and
  - d. Accumulates on-site a total amount of hazardous waste that is less than 2,200 lbs (1,000 kg) and a total amount of acute hazardous waste that is less than 2.2 lbs (1 kg) and a total amount of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill of acutely hazardous waste into or on any land or water that is less than 220 lbs (100 kg).
  - e. Such quantity determination shall be made in accordance with § 1.7.6 of this Part. [see also definitions of Small Quantity Generator and Large Quantity Generator].
15. "Consignee" means a person or agent to whom something is sent.

16. "Container" means any portable device in which a material is stored, transported, treated, disposed of or otherwise handled.
17. "Contingency plan" means a document setting out an organized, planned and coordinated course of action to be followed in case of a fire, explosion or release of hazardous waste or hazardous waste constituents that would threaten human health or the environment.
18. "Critical habitat" means that area for an endangered species as defined in the Endangered Species Act, 16 U.S.C. § 1532.
19. "Department" means the Department of Environmental Management.
20. "Designated facility" means: A hazardous waste treatment, storage, or disposal facility that:
  - a. Has received a permit (or interim status) in accordance with the requirements of 40 C.F.R. §§ 270 and 124,
  - b. Has received a permit (or interim status) from a State authorized in accordance with 40 C.F.R. § 271 or
  - c. Is regulated under 40 C.F.R. § 261.6(c)(2) or subpart F of 40 C.F.R. § 266 and
  - d. That has been designated on the manifest by the generator pursuant to 40 C.F.R. § 262.20, excluding 262.20(e).
  - e. Designated facility also means a generator site designated on the manifest to receive its waste as a return shipment from a facility that has rejected the waste in accordance with 40 C.F.R. § 264.72(f) or § 265.72(f).
  - f. If a waste is destined to a facility in an authorized State which has not yet obtained authorization to regulate that particular waste as hazardous, then the designated facility must be a facility allowed by the receiving State to accept such waste.
21. "Destination facility" means a facility that treats, disposes of, or conducts on-site recycling of a particular category of universal waste, except those management activities described in 40 C.F.R. § 273.13(a) and (c) and 40 C.F.R. § 273.33(a) and (c). A facility, at which a particular category of universal waste is only accumulated, is not a destination facility for purposes of managing that category of universal waste.
22. "Director" means the Director of the Department of Environmental Management, or his/her designee.

23. "Direct recharge area" means any area in which precipitation percolates to the water table and flows through subsurface materials to a specified area of discharge. The specified area of discharge may be a reach of a stream, a spring, a well or a well field.
24. "Discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of hazardous waste into or on any land or water.
25. "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, abandoning or placing of any hazardous waste in, on, into or onto any land, other surface, or building, or into any water, stormwater system or sewer system.
26. "DOT" or "Department of Transportation" means as used in the portions of the Code of Federal Regulations that are incorporated by reference means the USDOT ("US Department of Transportation").
27. "Endangerment" means the introduction of a substance into groundwater so as to cause the maximum allowable contaminant levels established in the National Primary Drinking Water Standards or the standards contained in the Public Drinking Water Regulations of the Rhode Island Department of Health to be exceeded in the groundwater; or require additional treatment of the groundwater in order not to exceed the maximum contaminant levels established in any promulgated National Primary Drinking Water Standard or the standards contained in the Public Drinking Water Regulations of the Rhode Island Department of Health.
28. "EPA" or "United States Environmental Protection Agency" or "U.S. Environmental Protection Agency" or "Agency" means as used in the portions of the Code of Federal Regulations that are incorporated by reference, means the "Department" or the "Department of Environmental Management", except as follows:
  - a. References to "EPA Identification numbers", "EPA hazardous waste numbers", "EPA test methods", "EPA publications", "EPA form(s)", "EPA Guidance", or "EPA Acknowledgement of Consent".
  - b. Use of "EPA" or "United States Environmental Protection Agency" or "U.S. Environmental Protection Agency" or "Agency", including its mailing address, where shown, in the following 40 C.F.R. §§ 260.10, 260.11(a), 261 Appendix ix, 264.12(a), 265.12(a), 268.1(e)(3), 270.2, 270.10(e)(2), 270.32(a), 270.32(c), 270.72(a)(5), 270.72(b)(5), 273.32(a)(3).

- c. Use of "EPA" or "United States Environmental Protection Agency" or "U.S. Environmental Protection Agency" or "Agency" in any section of the Code of Federal Regulations that cannot be delegated to any state, including Rhode Island and that include the following 40 C.F.R. §§ 262, Subpart B, Subpart E, & Subpart H and 263, Subpart B regarding exports of hazardous waste; 262.60(c) and (e) and 264.71(d) regarding imports of hazardous waste; and 268.5, 268.6, and 268.42(b) plus 268.44(a-g) regarding land disposal restrictions.
  - d. Use of EPA with respect to manifest registry functions under 40 C.F.R. § 262.21 and with respect to export requirement in 40 C.F.R. § 263.20(a) and (g).
  - e. Usage in the term "EPA region" in 40 C.F.R. § 260.
  - f. References to "EPA Director of the Office of Solid Waste" in 40 C.F.R. § 262.21.
  - g. References to EPA's "International Compliance Assurance Division" in 40 C.F.R. § 264.71(a)(3) and 265.71(a)(3).
29. "EPA identification number" or "I.D. No." means the number assigned by the Department to each generator, hazardous waste transporter, and treatment, storage or disposal facility.
30. "Evaporation unit" means a tank or tank system that:
- a. Heats wastewater to intentionally evaporate water to reduce the volume of the wastewater only and;
  - b. Receives and treats or stores an influent wastewater that is a hazardous waste, or that generates and accumulates a wastewater treatment sludge that is a hazardous waste, or treats or stores a wastewater treatment sludge which is a hazardous waste and;
  - c. Is not used to dispose of hazardous waste and;
  - d. Has notified the Department as required by § 1.7.1(C)(5)(e) of this Part.
  - e. Evaporation unit does not mean a sludge dryer associated with a wastewater treatment unit. Also, sludge dryers not associated with wastewater treatment units shall be considered hazardous waste treatment units in accordance with §§ 1.9 and 1.10 of this Part.

31. "Existing tank system" or "existing component" means a tank system or component that is used for the storage or treatment of hazardous waste, is in operation and meets the following definition:
- a. A tank system that is owned or operated by a small quantity generator or any tank system (aboveground, onground, inground, or underground) that cannot be entered for inspection, and for which the installation commenced on or prior to July 14, 1986 or;
  - b. A tank system (aboveground, onground, inground, or underground) that is not owned or operated by a small quantity generator that can be entered for inspection, and for which the installation commenced on or prior to December 1, 1992.
  - c. For the definitions above, installation will be considered to have commenced if the owner or operator has obtained all Federal, State, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either
    - (1) a continuous on-site physical construction or installation program has begun, or
    - (2) the owner or operator has entered into contractual obligations—which cannot be canceled or modified without substantial loss—for physical construction of the site or installation of the tank system to be completed within a reasonable time.
32. "Facility" means all contiguous land, structures and other appurtenances and improvements on the land used for treating, storing or disposing of hazardous waste or used oil. For the purposes of implementing corrective action under 40 C.F.R. § 264.101, the term shall mean all contiguous property under the control of the owner or operator seeking a RCRA subtitle C permit. The term shall also mean all contiguous property under control of the owner or operator of an interim status facility implementing corrective action.
33. "Fault" means a fracture along which rocks on one side have been displaced with respect to those on the other side.
34. "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. § 136-136y).
35. "Flood plain" means that area covered by a flood that has a one percent or greater chance of occurring in any year or of a magnitude equaled or exceeded once in 100 years on the average.

36. "Generator" means any person, by site, who produces hazardous waste or imports hazardous waste from a foreign country or whose act or process produces hazardous waste or whose act first causes a hazardous waste to become subject to regulation. Any person that takes possession or control of hazardous waste by obtaining property where hazardous waste is stored or abandoned shall be considered a generator. The term "generator" shall include Large Quantity Generators, Small Quantity Generators and Conditionally Exempt Small Quantity Generators.
37. "Hazardous waste" means any waste or combination of wastes of a solid, liquid, contained gaseous, or semi-solid form that, because of its quantity, concentration, or physical or chemical characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or pose a substantial present or potential hazard to human health or the environment. "Hazardous waste" means any hazardous waste as defined in 40 C.F.R. § 261.3 or is subject to regulation under 40 C.F.R. §§ 261.7 and 261.33 as well as any hazardous waste defined in § 1.5 of this Part including Rhode Island Hazardous Waste. Where the phrase solid waste appears in the Code of Federal Regulations, the word waste may be substituted.
- a. Mixed waste as defined in § 1.5 of this Part is also a hazardous waste.
  - b. Determination that a material is not a hazardous waste must be made in accordance with 40 C.F.R. §§ 260.30, 260.31, and 260.33.
  - c. Hazardous wastes that are recycled are subject to the provisions of 40 C.F.R. § 261.6 and the sections of 40 C.F.R. § 266 referenced therein, except as limited by R.I. Gen. Laws § 23-19.1-10(f) and except as 40 C.F.R. § 261.6(a)(4) affects used oil that exhibits one or more of the characteristics of hazardous waste. The Director may also regulate certain recycling activities as provided by 40 C.F.R. §§ 260.40 and 260.41.
38. "Hazardous waste disposal facility" means real and personal property acquired, constructed or operated for the purpose of the disposal of hazardous waste. This term does not include a corrective action management unit into which remediation wastes are placed.
39. "Hazardous waste incinerator" means an engineered device using controlled flame combustion for thermally degrading hazardous waste.
40. "Hazardous waste management facility" means a facility, excluding vehicles, for collection, source separation, storage, processing, treatment, recovery or disposal of hazardous wastes, or a transfer station for hazardous waste, and

may include a facility where such activities occur and where waste has been generated.

41. "Hazardous waste transporter" means a person, individual, firm, partnership, association and private or municipal corporation that transports hazardous waste.
42. "Hazardous waste treatment facility" or "Hazardous waste storage facility" means real and personal property acquired, constructed or operated for the purpose of storing or treating hazardous wastes.
43. "Household hazardous waste" means waste that meets any of the definitions of a hazardous waste and which is derived from households. This definition does not include hazardous wastes generated in households as part of a business, nor shall this definition extend to wastes from hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas, except for those wastes ordinarily left behind by guests or other users of these institutions. Hazardous waste pharmaceuticals from residential care apartment complexes or other properties that purchase, store, distribute or otherwise centrally manage medications on behalf of tenants are not considered household hazardous waste, but rather are regulated as hazardous waste.
44. "Household hazardous waste facility" means a facility that accepts for subsequent disposal, only household hazardous waste as defined above.
45. "Household hazardous waste pharmaceuticals" means pharmaceutical wastes (medications) that also meet the definition of household hazardous waste.
46. "Household refuse" means refuse generally produced at a home.
44. "Household used oil" means used oil derived from households.
48. "Household used oil generator" means an individual who generates household used oil.
49. "Incineration" means the treatment of hazardous waste using controlled flame combustion, the primary purpose of which is to thermally break down the hazardous waste.
50. "Incinerator" means any enclosed device using controlled flame combustion that neither meets the criteria for classification as a boiler nor is listed as an industrial furnace.
51. "Incompatible wastes" means a hazardous waste that is unsuitable for:

- a. Placement in a particular device or facility because it may cause corrosion or decay of containment materials; or
  - b. Commingling with another waste or material under controlled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes or gases or flammable fumes or gases.
52. "Industrial furnace" means any device listed as such in 40 C.F.R. § 260.10 or other devices that the Director may, after notice and comment, add to the list based on one or more of the factors specified in part 13 of the definition [of industrial furnace in 40 C.F.R. § 260.10](#).
53. "Injection well" means a well or system of wells used for the disposal of hazardous waste by pumping the waste into deep wells where they are contained in the pores of permeable subsurface rock.
54. "In operation" means a facility that is treating, storing or disposing of hazardous waste.
55. "Land disposal facilities" means surface impoundments, waste piles, land treatment facilities and landfills.
56. "Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and that is not a land treatment facility, a surface impoundment, an injection well, a waste pile, or a corrective action management unit.
57. "Land treatment facility" means a facility or part of a facility where hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.
58. "Large quantity generator of hazardous waste" or "LQG" means a person who meets any of the following conditions:
- a. Generates 2,200 lbs (1,000 kg) or more of hazardous waste in a calendar month, or
  - b. Generates greater than 2.2 lbs (1 kg) of acutely hazardous waste in a calendar month, or
  - c. Generates more than 220 lbs (100 kg) of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill into or on any land or water, of any acutely hazardous waste in a calendar month or

- d. The quantity of hazardous waste stored on-site exceeds 13,200 lbs (6,000 kg) at any one time, or the quantity of acutely hazardous waste stored on-site exceeds 2.2 lbs (1 kg) at any one time, or the quantity of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill of acutely hazardous waste into or on any land or water stored on-site exceeds 220 lbs (100 kg) at any one time.
  - e. Such quantity determination shall be made in accordance with § 1.7.6 of this Part. [See also definitions of Small Quantity Generator and Conditionally Exempt Small Quantity Generator]
59. "Large quantity handler of universal waste" means a universal waste handler (§ 1.7.6) who accumulates 20,000 kilograms or more total of used electronics, calculated collectively at any time, or who accumulates 5,000 kilograms (11,000 pounds) or more total of all other universal waste (batteries, pesticides, mercury-containing equipment, lamps, or silver-containing photo fixing solutions), calculated collectively at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year where 20,000 kilograms or more total of used electronics, or 5,000 kilograms (11,000 pounds) or more total of all other universal waste is accumulated.
60. "Liquid" means any waste that expresses as separable liquid by weight thirty percent (30%) or more of the waste when exposed to a vacuum of 3/4 atmosphere for thirty (30) minutes.
61. "Load" means a mass or weight of a particular hazardous waste contained in one or more transporting container(s).
62. "Local land authority" means a city or town council.
63. "Low-level mixed waste" means waste that contains both low-level radioactive waste and hazardous waste.
64. "Low-level radioactive waste" means a radioactive waste that contains source material, special nuclear material, or byproduct material, and that is not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section 11e(2) of the Atomic Energy Act [\(42 U.S.C.\)](#).
65. "Manifest" means the Uniform Hazardous Waste Manifest (EPA Form 8700-22, including Form 8700-22A) as defined by 40 C.F.R. § 260.10. Examples of these forms can also be found at <http://www.epa.gov/epawaste/hazard/transportation/manifest/forms.htm>.

66. "Manufacturing and mining by-products" means secondary or incidental materials created in manufacturing or mining operations.
67. "Mixed waste" means a waste that contains both hazardous waste and radioactive waste that is classified as source material, special nuclear material, or byproduct material subject to the Atomic Energy Act of 1954, as amended as of the effective date of these regulations.
68. "NARM" or "Naturally occurring and/or accelerator-produced radioactive material" means radioactive materials that:
- a. Are naturally occurring and are not source, special nuclear, or byproduct materials as defined by the Atomic Energy Act, or
  - b. Are produced by an accelerator.
69. "New tank system" or "new tank component" means a tank system or component that will be used for the storage or treatment of hazardous waste and that meets the following definition:
- a. A tank system that is owned or operated by a small quantity generator or any tank system (aboveground, onground, inground, or underground) that cannot be entered for inspection, and for which the installation commenced after July 14, 1986 or;
  - b. A tank system (aboveground, onground, inground, or underground) that is not owned or operated by a small quantity generator that can be entered for inspection, and for which the installation commenced after to December 1, 1992
  - c. For the definitions above, installation will be considered to have commenced if the owner or operator has obtained all Federal, State, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either
    - (1) a continuous on-site physical construction or installation program has begun, or
    - (2) the owner or operator has entered into contractual obligations—which cannot be canceled or modified without substantial loss—for physical construction of the site or installation of the tank system to be completed within a reasonable time.
70. "On-site" means the same or geographically contiguous property that may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by

crossing as opposed to going along the right-of-way. Non-contiguous properties owned by the same person connected by a right-of-way that he controls and to which the public does not have access is also considered on-site property.

71. "Operator" means the person who is responsible for the operation of the facility.
72. "Owner" means the person who owns the facility or part of the facility.
73. "Paint collection center" means a location registered with the Department to accept only architectural paint that is either Household Hazardous Waste and/or is generated by Conditionally Exempt Small Quantity Generators. The Paint Collection Center shall include all contiguous land, structures and other appurtenances and improvements on the land used for accepting, storing, consolidating or shipping paint.
74. "PCB" or "PCBs" means any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of substances that contains such substances.
75. "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, the Federal Government or any agency or subdivision thereof, a state, municipality, commission, political subdivision of a state, or any interstate body.
76. "Precious metal bearing wastes" means all materials destined for reclamation containing a concentration of gold, silver, rhodium, palladium and/or platinum that makes the waste economically recoverable including, but not limited to, plating baths and stripping solutions.
77. "Processing used oil" means chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used oil-derived products. Processing includes, but is not limited to: blending used oil with virgin petroleum products, blending used oils to meet the used oil fuel specifications, filtration, simple distillation, chemical or physical separation and re-refining.
78. "RAP" means a Remedial Action Plan as defined in 40 C.F.R. § 270.2.
79. "RCRA" or "Resource Conservation and Recovery Act" or "Subtitle C of RCRA" or "RCRA Subtitle C" or "Subtitle C" means as used in the portions of the Code of Federal Regulations that are incorporated by reference, when referring either to an operating permit or to the Federal hazardous waste program as a whole (i.e., not a specific provision of RCRA), means the [R.I. Gen. Laws Chapter 23-19.1 \(Hazardous Waste Management Act\)](#), except as otherwise noted in these Rules and Regulations and except at 40 C.F.R.

§ 260.10 definition of "Act" or "RCRA", at 40 C.F.R. § 262 Appendix, at 40 C.F.R. § 270.2 definition of "RCRA" and at 40 C.F.R. § 270.51 reference to "EPA-issued RCRA permit".

80. "Remediation waste management site" means a facility where an owner or operator is or will be treating, storing, or disposing of hazardous remediation waste.
81. "Re-refining distillation bottoms" means the heavy fraction produced by vacuum distillation of filtered and dehydrated used oil.
82. "Rhode Island hazardous wastes" means any waste meeting the below-listed definitions:
  - a. Rhode Island Hazardous Waste Codes R001-R010 - Waste codes R001 through R010 are only to be used if the waste meets the definition associated with these codes and does not meet any of the federal definitions of a hazardous waste.
    - (1) Used Electronics (R001) shall mean used electronics voluntarily managed as a hazardous waste.
    - (2) Reserved: The following waste codes are reserved: R002, R003, R004, R005 and R008.
    - (3) "Extremely hazardous waste" or "R006" means any waste that:
      - (AA) Contains any known carcinogen as designated in regulatory rule-making by any of the federal agencies (OSHA, FDA, EPA, CPSC or DHHS-NTP) in concentrations or amounts at or above the federally regulated level or at 1/10 of 1% (0.1%) by weight, whichever is more stringent, of any solid or liquid mixture. (This rule does not apply to asbestos waste or PCB waste.) or
      - (BB) Contains any suspect human carcinogen as designated in a regulatory rule-making by any of the federal agencies (OSHA, FDA, EPA, CPSC or DHHS-NTP) in concentrations or amounts at or above the federally regulated level or at 1% by weight whichever is more stringent, of any solid or liquid mixture. This rule does not apply to asbestos waste, or
      - (CC) Contains any U. S. Department of Transportation Class 2, Division 2.3 hazardous material (gas poisonous by inhalation), per 49 C.F.R. § 173.115 or Class 6, Division

6.1 hazardous material (poisonous materials), per 49 C.F.R. § 173.132 other than pharmaceuticals in finished dosage forms (i.e. inhalers, capsules, tablets, syrups, injectables and ointments), or

(DD) Contains chemotherapy agents that are antineoplastic or cytotoxic, including but not limited to drugs listed by the United States Center for disease control in the National Institute of Occupational Safety and Health list of Antineoplastic and Other Hazardous Drugs (<http://www.cdc.gov/niosh/docs/2012-150/pdfs/2012-150.pdf>) incorporated by reference herein, not including any further amendments or editions thereof.

(4) "Polychlorinated biphenyls waste" or "PCB waste" (R007) means any waste that contains polychlorinated biphenyls at a concentration of fifty parts per million (50 ppm) or greater. Wastes containing PCBs at a concentration of 50 ppm or greater are also subject to additional regulations under TSCA (Toxic Substances Control Act) in 40 C.F.R. § 761.

(5) "Mercury containing wastes" (R009) means any waste that contains any mercury-added products that are disposed of as waste but do not meet the federal definition of D009 in 40 C.F.R. § 261.24. These wastes may also be managed as mercury containing equipment as per § 1.14 of this Part.

(6) "Used oil" (R010) means any used oil that is designated by the generator as hazardous waste and not sent for recycling in accordance with § 1.16 of this Part and that does not meet any of the criteria for characteristic or listed hazardous wastes in 40 C.F.R. § 261 Subparts C and D or Rhode Island State-regulated hazardous wastes.

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

(1) The following codes indicate the waste is exempt from the Hazardous Waste Generation Fee described in §§ 1.7 and 1.8 of this Part and are to be used in addition to other applicable federal and state hazardous waste codes. These waste codes are to be used in addition to applicable state and federal waste codes:

(AA) Secondary Waste: Waste generated by a hazardous waste management facility as a result of treatment, repackaging or storage of wastes received by the

facility shall be designated as an R011 waste. This waste code shall be used in addition to other required waste codes.

- (BB) Precious metal bearing waste meeting the definition of a precious metal bearing waste as defined by § 1.5 of this Part shall be designated as an R012 waste. This waste code shall be used in addition to other required waste codes.
- (CC) Household hazardous waste meeting the definition of a household hazardous waste as defined by § 1.5 of this Part shall be designated as an R013 waste. This waste code shall be used in addition to other required waste codes. This exemption shall also apply to architectural paints collected by Paint Collection Centers or Community Collection Centers from CESQGs.
- (DD) Used oil or related materials that are managed in accordance with the requirements of § 1.16 of this Part shall be designated as an R014 waste.
- (EE) Waste not meeting the definition of a hazardous waste that is transported using a manifest shall be designated as an R015 waste. This waste code shall be used in addition to other waste codes required by the destination state.
- (FF) Removal Action Waste generated (as listed on item 5 of the Manifest) by the Department or the United States Environmental Protection Agency in the course of emergency response or environmental remediation activities. This exemption shall only apply if the applicable government agency generating the waste while performing the remediation is not considered a Responsible Party as defined herein or pursuant to R.I. Gen. Laws § 23-19.14-3. Such waste shall bear a State waste code of R016 code in addition to other waste codes required by the destination state.
- (GG) Use of the R016 waste code by the generating agency shall not prohibit the Department from collecting the Hazardous Waste Generation Fee as part of a cost recovery action from any other generator determined to be a responsible party associated with the removal action.

83. "Satellite accumulation" means the accumulation of as much as fifty-five (55) gallons of hazardous waste, or the accumulation of as much as one quart of acutely hazardous waste, in containers located at or near any point of generation where the waste initially accumulates, and that is under the control of the operator of the process generating the waste.
84. "Septage" means septage from individual sewage disposal systems containing human or animal excremental liquid or substance, any putrescible animal or vegetable matter, garbage and filth, including the discharge of water closets, laundry tubs, washing machines, sinks, dishwashers and the contents of septic tanks, grease traps, cesspools or privies.
85. "Silver-containing photo fixing solutions" means photographic processing solutions containing silver (hazardous waste code D011) that has been removed from photographic film and paper by the fixing agent and that fail the TCLP (40 C.F.R. § 261.24) for silver and therefore meet the definition of hazardous waste code D011.
86. "Small quantity generator of hazardous waste" or "SQG" means a person who meets all of the conditions below:
- a. Generates less than 2,200 lbs (1,000 kg) but greater than 220 lbs (100 kg) of hazardous waste in a calendar month, and
  - b. Generates less than or equal to 2.2 lbs (1 kg) of acutely hazardous waste in a calendar month, and
  - c. Generates less than or equal to 220 lbs (100 kg) of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill into or on any land or water, of any acutely hazardous waste in a calendar month, and
  - d. Does not store on-site at any time a total amount of hazardous waste greater than 13,200 lbs (6,000 kg), or a total amount of acute hazardous waste greater than 2.2 lbs (1 kg) or a total amount of any residue or contaminated soil, waste, or other debris resulting from the cleanup of a spill of acutely hazardous waste that exceeds 220 lbs (100 kg).
  - e. Such quantity determination shall be made in accordance with § 1.7.6 of this Part. [See also definitions of Large Quantity Generator and Conditionally Exempt Small Quantity Generator]
87. "Small quantity handler of universal waste" means a universal waste handler (as defined in this rule) who does not accumulate 20,000 kilograms or more total of used electronics, calculated collectively at any time and who does

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

88. "Sole source aquifer" means an aquifer designated by the United States Environmental Protection Agency as the sole or principal source of drinking water for the area above the aquifer and including those lands where the population served by the aquifer live; that is, an aquifer which is needed to supply 50% or more of the drinking water for that area and for which there are no reasonably available alternative sources should the aquifer become polluted.
89. "Solid waste management unit" or "SWMU" means a hazardous waste management facility or any portion thereof where solid wastes have been placed at any time, irrespective of whether the unit was intended for the management of solid or hazardous waste. Such unit includes any area at a facility where solid wastes have been routinely and systematically released. SWMUs include regulated units as well as units used to manage non-hazardous solid wastes.
90. "Specification used oil" means any used oil that meets the minimum allowable levels for Flash Point and does not contain constituents at concentrations that exceed any maximum allowable levels listed in Table 3 of § 1.16.3(A)(6) of this Part.
91. "State" or "States" or "Authorized State" or "Approved States" or "Approved program" means as used in the portions of the Code of Federal Regulations that are incorporated by reference means the state of Rhode Island, except as the term appears at 40 C.F.R. § 124.2(a) definitions of "Director", "Interstate agency", "Person" and "State", at 40 C.F.R. §§ 260.10 definitions of "Person", "State", and "United States", at 40 C.F.R. § 262, at 40 C.F.R. § 264.143(e)(1), at 40 C.F.R. § 264.145(e)(1), at 40 C.F.R. § 264.147(a)(1)(ii), (b)(1)(ii), (g)(2) and (g)(4), at 40 C.F.R. § 265.143(d)(1), at 40 C.F.R. § 265.145(d)(1), at 40 C.F.R. § 265.147(a)(1)(ii), (g)(2), and (i)(4), at 40 C.F.R. § 270.2 definitions of "application", "approved program or approved State", "Director", "Interim Authorization", "Final Authorization", "Major Facility", "Person", "Publicly Owned Treatment Facilities", "State", "State Director", and "State/EPA Agreement".
92. "Storage" means the actual or intended containment of hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous waste.
93. "Storage facility" means any facility that stores hazardous wastes and that has a closure plan that provides for the complete removal of all wastes.

94. "Surface impoundment" means a facility or part of a facility that is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), that is designed to hold an accumulation of liquid wastes or waste containing free liquids, and that is not an injection well. Examples of surface impoundments are holding, storage, settling and aeration pits, ponds and lagoons.
95. "Tank" means a stationary device designed to contain an accumulation of material, hazardous waste or used oil that is constructed primarily of non-earthen materials that provide structural support.
96. "Tolling agreement" means a contract between a used oil generator and a used oil processor/re-refiner pursuant to which used oil that is reclaimed by the used oil processor/re-refiner is returned to the used oil generator for use as a lubricant, cutting oil or coolant.
97. "Totally enclosed treatment unit" means a unit for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. An example is a pipe in which waste acid is neutralized.
98. "Toxicity characteristic leaching procedure" means the procedure referenced in 40 C.F.R. § 261.24(a).
99. "Transfer station" means an intermediate point in the transport of hazardous wastes where such wastes are brought, stored and transferred to vehicles for movement to other intermediate points or to the point of ultimate storage or disposal.
100. "Transport" means the movement of wastes from the point of generation to any off-site intermediate points, and finally to the point of final storage, treatment or disposal.
101. "Transportation unit" means any car, truck, tractor, or other device used in transportation on land, water, or in the air or any trailer, tank or other type of containment structure permanently or temporarily attached thereto.
102. "Transporter" means any person that transports hazardous waste other than on-site or that transports septage.
103. "Treatment" means any method, technique, or process, including neutralization or incineration, designed to change the physical, chemical, or biological character or composition of any hazardous waste as to neutralize such waste or so as to render such waste less hazardous, non-hazardous,

safer to transport, amenable to storage, or reduced in volume, except such method or technique as may be included as part of the manufacturing process at the point of generation.

104. "Underground drinking water source" means an aquifer supplying drinking water for human consumption; or an aquifer where the groundwater contains less than 500 mg/L total dissolved solids; or an aquifer designated as such by the Administrator of the Environmental Protection Agency or any Rhode Island State agency authorized to do so.
105. "Underground Storage Tank" or "UST" means any tank or tank system that meets the definition of a UST contained in the Rhode Island Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials (the "UST Regulations").
106. "Universal waste" means any of the following hazardous wastes that are subject to the universal waste requirements of 40 C.F.R. § 273 and that are subject to § 1.14 of this Part:
  - a. Batteries as described in 40 C.F.R. § 273.2;
  - b. Pesticides as described in 40 C.F.R. § 273.3;
  - c. Mercury-containing equipment as described in 40 C.F.R. § 273.4;
  - d. Lamps as described in 40 C.F.R. § 273.5.
  - e. Used Electronics as described in § 1.15 of this Part;
  - f. Silver-containing photo fixing solutions as described in § 1.15 of this Part.
107. Universal Waste Handler:
  - a. Means:
    - (1) A Generator (as defined in § 1.5 of this Part) of universal waste; or
    - (2) The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.
  - b. Does not mean:

- (1) A person who treats (except for those activities allowed in § 1.14 of this Part) disposes of, or recycles universal waste; or
- (2) A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

108. "Universal waste transfer facility" means any transportation-related facility including loading docks, parking areas, storage areas and other similar areas where shipments of universal waste are held during the normal course of transportation for ten days or less.

109. "Universal waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

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

- a. A part of a motor vehicle or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle; or
- b. Functionally or physically a part of, connected to or integrated within a larger piece of equipment designed and intended for use in an industrial, governmental, commercial, research and development, or medical setting, (including diagnostic, monitoring, or other medical products as that term is defined under the Federal Food, Drug, and Cosmetic Act, [21 U.S.C. § 351-360](#)) or equipment used for security, sensing, monitoring, or anti-terrorism purposes; or
- c. Contained within a home appliance, clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, or air purifier; or

- d. A handheld device used to access commercial mobile radio service, as such service is defined in 47 C.F.R. § 20.3.
111. "Used oil" means oil that has been refined from crude oil (in whole or in part), or any synthetic oil that, through use or handling, has become unsuitable for its original purpose due to the presence of physical or chemical impurities or loss of original properties. Used oil is a free-flowing liquid at standard temperature and pressure. Used oil shall include, but not be limited to, lubricating oils and greases, engine oils, metal working fluids, emulsive coolants, hydraulic fluids, refrigeration oils, electrical insulating oils, silicon oils and wire drawing oils. Used oil does not include materials derived from crude or synthetic oils that are used as fuels (e.g., gasoline, jet fuel and diesel fuel) or used as cleaning agents or solvents (e.g., mineral spirits), that are subject to the waste characterization requirements under the § 1.7.3 ([Hazardous Waste Determination](#)) of this Part and may be subject to additional parts of these rules if the materials meet the definition of Hazardous Waste.
112. "Used oil aggregation point" means any site or facility that accepts, aggregates, and/or stores used oil collected only from other used oil generation sites owned or operated by the owner or operator of the aggregation point.
113. "Used oil burner" means an owner or operator of a facility where used oil is burned for the purpose of energy recovery in used oil burning equipment.
114. "Used oil burning equipment" means fuel burning equipment, including but not limited to, any space heater, industrial furnace or boiler that is used to burn used oil for the purpose of energy recovery.
115. "Used oil collection centers" means any facility or site that accepts/aggregates and stores used oil collected from household used oil generators.
116. "Used oil fuel" means used oil that meets the specifications contained in Table [3](#) in § 1.16.3(A)(6) of this Part and is burned for energy recovery.
117. "Used oil generator" means any person, by site, whose act or process produces used oil that is not a "household used oil" or whose act first causes used oil to become subject to regulation.
118. "Used oil marketer" means any person who directs a shipment of specification used oil from their facility to a used oil burner or first claims that a shipment of used oil meets Specification Used Oil Requirements set forth in Table [3](#) of § 1.16.3(A)(6) of this Part.

119. "Used oil processor" or "re-refiner" means a facility that conducts processing of used oil as defined in these rules.
120. "Used oil temporary storage facility" means any transportation related facility including loading docks, parking areas, storage areas and other areas where shipments of used oil are held for more than 24 hours but not longer than 35 days during the normal course of transportation. Temporary storage facilities that store used oil for more than 35 days are subject to the used oil processor/re-refiner requirements of § 1.16.8 of this Part.
121. "Used oil transporter" means any person, excluding household used oil generators, who transports used oil, any person who collects used oil from one or more generators and transports the collected oil, and owners and operators of used oil temporary storage facilities.
122. "Vehicle" means any car, truck, tractor, or other device used in transportation including any trailer, tank or other type of containment structure permanently or temporarily attached thereto.
123. "Washout" means the movement of hazardous waste from the active portion of the facility as a result of flooding.
124. "Waste" means solid waste as defined in 40 C.F.R. § 261.2.
125. "Waste pile" means any non-containerized accumulation of solid, non-flowing hazardous waste that is used for treatment or storage.
126. "Wastewater treatment unit" means a device that:
  - a. Is part of a wastewater treatment facility has received a permit for wastewater discharge from the local Publicly Owned Treatment Works or the RIDEM and;
  - b. Receives and treats or stores an influent wastewater that is a hazardous waste, or that generates and accumulates a wastewater treatment sludge that is a hazardous waste, or treats or stores a wastewater treatment sludge which is a hazardous waste and;
  - c. Meets the definition of tank or tank system; and
  - d. Is not a wastewater evaporation unit.
127. "Wetlands" means marshes, swamps, bogs, ponds, rivers, river and stream flood plains and banks; areas subject to flooding or storm flowage, emergent and submergent plant communities in any body of fresh water including rivers and streams and that area of land within fifty feet (50') of the edge of any bog, marsh, swamp or pond.

## **1.6 Variances**

### **1.6.1 Applications:**

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

### **1.6.2 Non-Permit Variances:**

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

1. Will provide protection of health and the environment equivalent to that provided by these rules,
2. Will not endanger the public health and safety,
3. Will not create a public or private nuisance,
4. Will not significantly interfere with the public use and enjoyment of any recreational resource,
5. Will not cause pollution in any surface body of water or any groundwater, or cause contamination of any drinking water supply or tributary thereto,
6. Will not violate any provisions of any Rules or Regulations adopted pursuant to R.I. Gen. Laws Chapter 23-23, as amended,
7. Will not be less stringent than 40 C.F.R. § 262.34(b).

B. The issuance or denial of a variance shall be preceded by public notice and opportunity for public comment. In no case shall the duration of any such variance exceed five (5) years. Renewals or extensions may be given only after public notice and opportunity for public comment on each such renewal or extension.

### **1.6.3 Permit Variances:**

In addition to the requirements of § 1.6.2 of this Part, the Director or his designee shall hold a public hearing prior to rendering a decision on any application. Prior to the hearing, the Director shall issue public notice on the radio and in a newspaper of general circulation in the area affected and shall notify by certified mail to the last known address: all persons requesting in writing such notification, all property

owners within five hundred (500) feet of the perimeter of the site of the applicant's facility, the city or town where the facility is located, and the applicant of the hearing date, time, and place. Such notices shall be made at least sixty (60) days prior to the date of the public hearing. Permit variances shall not be granted for a period to exceed one (1) year.

#### **1.6.4 Department's Evidence:**

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

#### **1.6.5 Remonstrant:**

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

#### **1.6.6 Decision:**

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

### **1.7 Generators**

#### **1.7.1 Purpose, Scope and Applicability**

- A. § 1.7 shall apply to all generators of hazardous waste which are defined in § 1.5 of this Part as either a Large Quantity Generator (LQG), Small Quantity Generator (SQG), or Conditionally Exempt Small Quantity Generator (CESQG). §§ 1.7.1 through 1.7.12 of this Part apply to all generators; in addition, § 1.7.13 of this Part applies to LQGs; § 1.7.14 of this Part applies to SQGs, and § 1.7.15 of this Part applies to CESQGs.
- B. Additional operations subject to generator rules:
  - 1. Any generator or person that conducts one or more of the following activities shall comply with the requirements for Large Quantity Generators of hazardous waste contained in this rule:
    - a. Hazardous Waste Management Facilities that initiates a shipment of hazardous waste from a treatment, storage, or disposal facility.
    - b. Community Collection Centers permitted in accordance with § 1.12 of this Part.

- c. Household Hazardous Waste Facilities as defined in § 1.5 of this Part.

C. Exemptions:

1. These rules do not apply to household hazardous waste generated by non-business activities at single and/or multiple family residences, subject to the household hazardous waste exemption in 40 C.F.R. § 261.4(b)(1). However, owners and/or operators of facilities that accept household hazardous waste, other than household hazardous waste pharmaceuticals, shall comply with the requirements for Large Quantity Generators in this rule and upon receipt the household hazardous waste shall be subject to full regulation as hazardous waste.
2. Household Hazardous Waste Pharmaceuticals accepted for destruction as consumer take-back programs, in accordance with the Department of Health and US Drug Enforcement Administration regulations are not subject to these regulations.
3. These rules do not apply to persons responding to an explosives or munitions emergency in accordance with 40 C.F.R. §§ 264.1(g)(8)(i)(D) or (iv) or 265.1(c)(11)(i)(D) or (iv) and 270.1(c)(3)(i)(D) or (iii).
4. These rules do not apply to the handling of solvent contaminated wipes that are cleaned and reused as described in the [2017](#) modification of 40 C.F.R. § 261.4(a)(26) (the federal exemption for disposal of solvent contaminated wipes is not recognized as explained in § 1.7.1(E)(1)(d) of this Part.
5. Treatment of certain hazardous waste: Treating hazardous waste without a permit or license is allowed if it falls into one of the categories below:
  - a. Is authorized as part of RCRA corrective action as described in § 1.17 of this Part (i.e. a written approval for a RAP, CAMU, TU or Staging Pile has been issued by the Department).
  - b. Is performing treatment in wastewater treatment units
  - c. Is performing treatment in elementary neutralization units described in §§ 1.9(B)(1)(g) and 1.10.2(A)(5) of this Part.
  - d. Is treating the waste in a totally enclosed treatment unit
  - e. Is treating the waste in evaporation units, as defined in § 1.5 of this Part, provided the generator complies with all the following conditions:
    - (1) Does not use the unit to dispose of hazardous waste

- (2) The unit is being used to legitimately treat only wastewater, as defined at 47 Fed. Reg. 4706 (Feb. 2, 1982) (note: Concentrated hazardous wastes are not covered by this exemption.)
- (3) Does not manage waste with the waste codes D001 or D003 in the unit.
- (4) All hazardous waste sludge is managed, before, during and after use of the evaporator unit, as a hazardous waste in accordance with this rule.
- (5) Incoming quantities of hazardous waste managed in evaporator units is included in the calculation of generator status (i.e. Large Quantity Generator vs. Small Quantity Generator vs. Conditionally Exempt Small Quantity Generator).
- (6) Has notified the Department on a form specified by the Department and received the Department's authorization in writing to conduct this activity.
- (7) Ensures that treatment in the evaporation unit shall result in the concentration of hazardous waste constituents for proper recycling or disposal, and not allow evaporation of significant amounts of hazardous waste constituents into the air. Air emissions of hazardous constituents shall also be controlled through compliance with all applicable air emission control requirements of the federal Clean Air Act and the Department's Air Pollution Control Regulations. This shall include completion of a RIDEM Office of Air Resources Evaporator Information Form before commencing operation of the unit. Each operator of an evaporator unit shall develop a written plan and keep it on site and available for inspection during operation of the evaporator and for three years thereafter, documenting such compliance and showing (based on testing or knowledge of the waste) that the unit is being used to legitimately concentrate wastes and is not resulting in the evaporation of significant amounts of hazardous waste constituents into the air. Operators of evaporator units who are large quantity generators must also comply with the air emission control requirements in 40 C.F.R. § 265, subparts AA, BB and CC as applicable. These regulations are hereby adopted by reference and made applicable to evaporator units at large quantity generators in Rhode Island. For all other entities in Rhode Island, these regulations are not being

adopted by reference by the State, but rather will continue to be administered by the U.S. EPA.

- (8) Ensures operation and placement of the unit does not:
  - (AA) Result in the generation of extreme heat or pressure, fire or explosion; or
  - (BB) Violent reaction;
  - (CC) Produce uncontrolled toxic mists, fumes, or gases in sufficient quantities;
  - (DD) Threaten human health;
  - (EE) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosion; or Damage the structural integrity of the unit, or cause the unit or any of its ancillary equipment to rupture, leak, abnormally corrode, or otherwise fail before the end of its intended life.

f. Is treating the waste in tanks or containers under the following conditions:

- (1) The generator provides written notification to the Department that includes the facility name, EPA identification number, generator status, mailing address, street address, telephone number, and contact person; A detailed description of the treatment process(es) to be used including process design drawings, plans or process flow diagrams; An estimate of the frequency that treatment will occur; The type(s) and estimated quantity of hazardous waste to be treated including a detailed description of the process(es) generating the waste; and A detailed description of how all treatment products and by-products will be managed following treatment.
- (2) A revised written notification is provided to the Department if the information required above if this section changes significantly.
- (3) The treatment occurs in containers and tanks that comply with the requirements of §§ 1.7.13, 1.7.14 and 1.7.15 of this Part as appropriate.

- (4) The treatment does not violate the applicable requirements of subparts AA, BB, and CC of 40 C.F.R. § 265 (as administered by EPA).
- (5) The hazardous waste being treated is generated and treated on-site.
- (6) During treatment and during any storage prior to treatment, hazardous waste is: Counted for the purpose of determining generator status under § 1.7.6; and Managed in accordance with the applicable requirements of § 1.7 of this Part.
- (7) The generator determines if treatment by-products are hazardous waste in accordance with § 1.7.3 of this Part.
- (8) The generator maintains records for three years documenting: The type(s) and quantity of waste treated; The method(s) of treatment used; and the date(s) that treatment occurred.
- (9) All hazardous waste generated from the treatment is managed in accordance with the applicable standards of § 1.7 of this Part.
- (10) If a generator is managing and treating waste or contaminated soil in tanks or containers to meet Land Disposal Restriction treatment standards found at 40 C.F.R. § 268.40, the generator develops and follows a written waste analysis plan in accordance with the requirements of 40 C.F.R. § 268.7(a)(5) (as administered by EPA).
- (11) The generator does not treat hazardous waste using thermal treatment processes.
- (12) The generator does not treat, break or shred mercury-containing wastes or devices (e.g., fluorescent lamps, thermostats).
- (13) The generator does not engage in breaking or shredding of CRT's as prohibited by § 1.14.5(A)(8) and § 1.14.5(A)(12) of this Part.
- (14) Treatment does not result in any adverse impact to human health or the environment
- (15) The Department reserves the right, upon receiving written notification of treatment by a generator, to require that treatment-specific requirements be met.



- g. The farmer exemption for disposal of waste pesticides in 40 C.F.R. §§ 262.70 and 262.10(f). Farmers are regulated under the otherwise applicable generator requirements in Rhode Island.
- h. Academic Labs Rule (40 C.F.R. § 262 Subpart K). Laboratory wastes are regulated under the otherwise applicable generator requirements in Rhode Island.
- i. Ocean Disposal Allowance under MPRSA in 40 C.F.R. §§ 264.1(c), 265.1(c)(1), and 270.60(a). This is not allowed in Rhode Island.
- j. Injection Well Allowance under UIC in 40 C.F.R. §§ 264.1(d) and 270.1(c)(1)(i). This is not allowed in Rhode Island except when a permit is issued by the Department for a remediation overseen by the Department.
- k. The federal wastewater exemption has been limited by Rhode Island to facilities actually discharging to surface waters or the sewers, as further described at 40 C.F.R. §§ 264.1(g)(6) and 270.1(c)(2)(v). Hazardous waste evaporators at generators are not allowed under this exemption but rather must meet the conditions specified in § 1.7.2(A)(4) of this Part.

## **1.7.2 Prohibitions**

- A. Generators of hazardous waste are prohibited from conducting the following activities:
  - 1. Disposing of or shipping hazardous waste on or to any location that does not meet the definition of a Designated Facility with the exception that CESQGs may also ship certain wastes to:
    - a. A Community Collection Center permitted by the Department or,
    - b. A Paint Collection Center (paint waste only).
  - 2. Shipping hazardous waste off-site for treatment or disposal or recycling without first completing a manifest approved by EPA as required in § 1.7 of this Part unless otherwise authorized in these Regulations.
  - 3. Receiving hazardous waste from off-site without first obtaining a permit, unless the activity is otherwise exempted by these regulations (e.g., for Community Collection Centers or Paint Collection Centers).
  - 4. Treating hazardous waste without a permit or license unless the treatment falls into one of the categories in § 1.7.1(C)(5) of this Part.

### **1.7.3 Hazardous Waste Determination**

Any person who generates a solid waste shall determine if the waste is a hazardous waste using the following method. The Generator shall first determine if the waste meets definition of a hazardous waste in § 1.5 of this Part. In accordance with the requirements of 40 C.F.R. § 261.4, as modified in § 1.5(C) of this Part, the Generator may then determine if the waste meets any of the exemptions or exclusions contained in that section. If the waste does not meet any of the federal definitions of hazardous waste, the generator shall then determine if any of the Rhode Island hazardous waste types apply, as defined by § 1.5 of this Part. Analytical testing may be employed by the generator to determine if a solid waste is hazardous waste and shall be determined by an approved method as set forth in 40 C.F.R. § 261 Subpart C. Equivalent testing methods per 40 C.F.R. § 260.21 are not allowed. Generators may also determine the regulatory status of the waste through product knowledge by demonstrating in writing clear and convincing scientific evidence of the characteristics of the waste and the process(es) that generated the waste. Regardless of any advisory opinions or statements from any laboratory or government agency, it remains the generator's responsibility to properly characterize his/her wastes. If the waste is determined to be hazardous, the generator shall refer to 40 C.F.R. §§ 261, 264 – 266, and 273 as incorporated by reference at §§ 1.4(B), (C), (E), (F), (G) and (I) of this Part and 40 C.F.R. § 268 (as administered by the EPA) for possible exclusions or restrictions pertaining to the management of the specific waste.

### **1.7.4 Generator Notification and Identification**

- A. All Generators, including CESQG's, shall notify the Department of their hazardous waste activity by applying for and obtaining an EPA Identification Number for his/her site using the RCRA Subtitle C & RI Hazardous Waste Management Act Activity Notification Form provided by the Department. However, CESQG's do not need to obtain an EPA Identification number in order to drop off paint at either a Community Collection Center or a Paint Collection Center.
- B. Generators shall not store or offer hazardous waste for shipment without first obtaining an EPA Identification Number and shall notify the Department in the event of a change of his/her status (LQG, SQG, CESQG, Non-generator) and/or a change in the nature of the hazardous waste generation activity. Only one EPA Identification Number will be issued for an individual generation site and the generator shall use the assigned EPA Identification Number exclusively for shipments of hazardous waste from the site. At the discretion of the Department, either a permanent or temporary EPA Identification Number will be issued to the generator. Temporary EPA Identification Numbers shall be valid for a period of time not to exceed ninety (90) days from the date of issuance.

### **1.7.5 Hazardous Waste Generation Fee**

- A. Each generator of hazardous waste shall pay a Hazardous Waste Generation Fee of 2.3 cents per pound or 19 cents per gallon of waste generated. This fee shall apply to all hazardous wastes that are generated in Rhode Island. The fee does not apply to waste treated onsite as allowed in § 1.7.2(A)(4) of this Part. The fee shall be collected by the hazardous waste transporter and in turn shall be paid to the Department as specified in § 1.8.17 of this Part (Hazardous Waste Generation Fee).
- B. Non-hazardous Waste and waste bearing Rhode Island Fee Exemption Waste Codes (R011-R016) as defined in § 1.5 of this Part are exempted from the fee.

**1.7.6 Generator Quantity Determination:**

- A. When making the quantity determinations used in the LQG, SQG, and CESQG definitions in § 1.5 of this Part, the generator must include all hazardous waste that it generates, except hazardous waste that:
  - 1. Is exempt from regulation under 40 C.F.R. §§ 261.4(c) through (f), 261.6(a)(3), 261.7(a)(1), or 261.8 as modified and incorporated by reference in § 1.4(C) of this Part, or
  - 2. Is managed immediately upon generation only in on-site elementary neutralization units or wastewater treatment units or in a totally enclosed treatment unit as defined in § 1.5 of this Part; or
  - 3. Is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under 40 C.F.R. § 261.6(c)(2); or
  - 4. Is used oil managed under the requirements of § 1.16 of this Part; or
  - 5. Is spent lead-acid batteries managed under the requirements of 40 C.F.R. § 266, subpart G; or
  - 6. Is universal waste managed under § 1.14 of this Part.
- B. In determining the quantity of hazardous waste generated, a generator need not include:
  - 1. Hazardous waste when it is removed from on-site storage provided that it has been counted when placed into storage; or
  - 2. Hazardous waste produced by on-site treatment (including reclamation) of his hazardous waste, so long as the hazardous waste that is treated was counted once; or
  - 3. Spent materials that are generated, reclaimed, and subsequently re-used on-site, so long as such spent materials have been counted once.

4. Architectural Paint received by Paint Care Centers.
- C. If at any time, or in any given month, the quantity or nature of waste generated or stored causes the generator status of an SQG or CESQG to change (to either LQG or SQG) the generator shall manage the waste as prescribed in the appropriate §§ 1.7.13 and 1.7.14 of this Part. This new standard of management shall include the more stringent provisions and time frames for the increased quantity of waste. The generator shall also notify the Department as required by § 1.7.4 of this Part.
  - D. If any generator mixes a solid waste with a hazardous waste that exceeds a quantity exclusion level of this section, the mixture is subject to full regulation and counts toward the generators status if the resultant mixture meets the definition of hazardous waste.

### **1.7.8 Record Keeping**

- A. Generators shall maintain the following records on-site as specified below and elsewhere in these rules for a period of at least three (3) years. The retention times for all records are automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Director.
  1. A copy of each hazardous waste manifest prepared by the generator for off-site shipment of waste and a copy of the same manifest signed by the designated facility. Records shall be maintained for a period of three (3) years from the date the waste was accepted by the transporter. The generator may maintain paper copies or digital copies so long as the digital copies comply with manifest requirements of 40 C.F.R. § 262.40.
  2. Biennial Reports completed by the generator if required for a period of three (3) years from the date the report was due.
  3. All analytical test results conducted by the generator related to waste determinations made per § 1.7.3 of this Part for at least three (3) years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal.
  4. Hazardous waste management training records on former employees shall be kept for at least three years from the date the employee last worked at the facility.
  5. Inspection logs of hazardous waste container storage areas or tanks holding hazardous waste.
  6. Documentation verifying that tanks holding hazardous waste are emptied every ninety (90) days or in a timely manner as required by the regulations.

7. Notification of intent to export for a period of at least three years from the date the hazardous waste was accepted by the initial transporter.
8. EPA Acknowledgement of Consent to export for a period of at least three years from the date the hazardous waste was accepted by the initial transporter.
9. Confirmation of exported hazardous waste delivery from the consignee for at least three (3) years from the date the hazardous waste was accepted by the initial transporter.
10. Annual export report for a period of at least three (3) years from the due date of the report.
11. A copy of each certificate of recovery sent by the recovery facility to the exporter for at least three (3) years from the date that the recovery facility completed processing the waste shipment.
12. Exception reports required by §§ 1.7.13 (LQG), 1.7.14 (SQG) or 1.7.15 (CESQG) of this Part for non-exported hazardous waste and exported hazardous waste for at least three (3) years from the date the report was filed.
13. Copies of any variances, determinations or permits granted by RIDEM or the U.S.E.P.A.
14. Generators that accumulate in tanks and containers are required to keep records as required by §§ 1.7.13.2 and 1.7.13(D) (LQG), 1.7.14(C) and (D) (SQG) and 1.7.15(C) (CESQG) of this Part as applicable.
15. Generators treating waste in tanks and containers must document: the type(s) and quantity of waste treated; the method(s) of treatment used; and the date(s) that treatment occurred.
16. Each operator of an evaporator unit shall develop a written plan and keep it on site and available for inspection during operation of the evaporator and for three years thereafter.

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

#### **1.7.9 Satellite Waste Accumulation:**

A. Generators may store up to 55 gallons of hazardous waste, or one (1) quart of acutely hazardous waste listed in 40 C.F.R. § 261.33(e) or 40 C.F.R. § 261.30 (d), in containers (satellite accumulation container) at or near any point of generation where the wastes initially accumulate, that is under the control of the operator of

the process generating the wastes. The generator may store these wastes in satellite accumulation areas without a storage permit or interim status and without complying with §§ 1.7.10, 1.7.13(B), 1.7.13(C), 1.7.13(G), 1.7.13(J) or 1.7.13(K), 1.7.14 (B), (C), (E), (F) or (I), or 1.8.15 (B), (C), (E) or (I) of this Part provided that the generator:

1. Labels each satellite accumulation container with the following information:
  - a. The words “Hazardous Waste”
  - b. The chemical or common name of the waste.
  - c. The date the excess amount of hazardous waste began accumulating per § 1.7.9(A)(6) of this Part.
2. Immediately transfers all hazardous wastes from a satellite accumulation container that is in poor condition and is leaking or may leak waste to another satellite accumulation container or a storage container that is in good condition.
3. Stores the hazardous waste in a satellite accumulation container that is made of or lined with materials that will not react with, and are otherwise compatible with, the hazardous waste to be accumulated, so that the ability of the satellite accumulation container to contain the waste is not impaired.
4. Keeps the satellite accumulation container holding hazardous waste closed except when actively adding or removing waste.
5. Handles, manages and maintains the satellite accumulation container in a manner that prevents damage to the container that could result in a spill or release of hazardous waste.
6. Within three days of accumulating hazardous waste in excess of the amounts listed in this rule, complies with the applicable requirements for storage and labeling of hazardous waste in containers as required by §§ 1.7.13 through 1.7.15 of this Part. During the three (3) day period the generator shall comply with requirements in §§ 1.7.9(A)(1) through (5) of this Part and mark the container holding the excess hazardous waste with the date upon which the excess amount first began accumulating waste.
7. If satellite containers are in close proximity to each other, then the total quantity of waste stored in these containers collectively cannot exceed 55 gallons.

### **1.7.10 Aisle Space**

Adequate aisle space shall be maintained of no less than three (3) feet between rows of containers in all areas of the facility where hazardous waste is stored to allow for access to containers and tanks holding hazardous waste by emergency personnel, fire protection equipment, spill control equipment, decontamination equipment and for inspection to ensure the tanks and containers are in good condition.

#### **1.7.11 Inspections; Right of Entry**

- A. Pursuant to R.I. Gen. Laws [§ 23-19.1-12](#), as amended, the Director may:
1. Enter any hazardous waste management facility, or any place the Director has reason to believe hazardous wastes are generated, stored, treated, or disposed of;
  2. Inspect vehicles that the Director has reasonable grounds to believe are being used for the transportation of hazardous wastes;
  3. Inspect and obtain samples of any waste or other substances, labels, containers of waste or other substance, or samples from any vehicle in which hazardous wastes are transported or in which the Director has reason to believe hazardous wastes are transported;
  4. Inspect and copy records, reports, information, or test results kept or maintained by a generator or at a hazardous waste management facility.

#### **1.7.12 Pre-Transport Requirements**

- A. Before transporting hazardous waste off-site or offering hazardous waste for transportation off-site, generators shall:
1. Package, label and mark each storage unit for offsite shipment in compliance with U.S.D.O.T. requirements under 49 C.F.R. §§ 172, 173, 178 and 179. Place a hazardous waste label on each container which includes the following information:
    - a. The words “Hazardous Waste – Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency”.
    - b. Generator’s name, address, city, state, zip code and telephone number
    - c. Generator’s EPA identification number
    - d. Proper D.O.T Shipping Name

- e. Hazardous Properties/Description
  - f. EPA waste codes
  - g. State waste code (if applicable)
  - h. Manifest document number
2. Placard or offer the initial transporter appropriate placards according to U.S.D.O.T.'s hazardous materials regulations at 49 C.F.R. § 172, Subpart F.

### **1.7.13 Large Quantity Generators (LQGs) - Waste Management Requirements**

- A. The following requirements apply to Large Quantity Generators as defined in § 1.5 of this Part.
- B. Hazardous Waste Storage:
- 1. A LQG may store hazardous waste on-site for a period not to exceed ninety (90) days, excluding wastewater treatment sludges as described below and hazardous waste in satellite accumulation, without first obtaining a storage permit as required by Hazardous Waste § 1.9 of this Part, provided that he/she manages the hazardous waste in accordance with the provisions of this Part. In addition, such a generator is exempt from all the requirements in subparts G and H of 40 C.F.R. § 265, except for closure requirements of 40 C.F.R. §§ 265.111 and 265.114. An LQG who stores hazardous waste (except for F006 waste) for more than 90 days is an operator of a storage facility and is subject to the § 1.10 of this Part operational requirements for treatment, storage, and disposal facilities requirements, 40 C.F.R. § 264, and the permit requirements of § 1.9 of this Part.
  - 2. Wastewater treatment sludges from electroplating operations that meet the listing description for the RCRA hazardous waste code F006, may be accumulated on-site for more than 90 days, but not more than 180 days without a permit or without having interim status provided that:
    - a. The generator has implemented pollution prevention practices that reduce the amount of any hazardous substances, pollutants or contaminants entering the F006 waste or otherwise released to the environment prior to its recycling;
    - b. The F006 waste is legitimately recycled through metals recovery (i.e., on-site or off-site recovery of distinct metal component(s) from the electroplating sludge, as separate end product(s));
    - c. No more than 20,000 kilograms (44,000 pounds) of F006 waste is accumulated on-site at any one time and

- d. The F006 waste is managed in accordance with the following:
- (1) The F006 waste is placed:
    - (AA) In containers that comply with § 1.9.13(C) of this Part and the generator complies with the applicable requirements of subparts AA, BB, and CC of 40 C.F.R. § 265 (as administered by EPA); and/or
    - (BB) In tanks that comply with § 1.9.13(D) of this Part and the generator complies with the applicable requirements of subparts AA, BB, and CC of 40 C.F.R. § 265 (as administered by EPA);and/or
    - (CC) In containment buildings and the generator complies with § 1.9.13(E) of this Part, and has placed its professional engineer certification that the building complies with the design standards specified in 40 C.F.R. § 265.1101 in the facility's operating record prior to operation of the unit. The owner or operator shall maintain the following records at the facility:
      - (i) A written description of procedures to ensure that the F006 waste remains in the unit for no more than 180 days, a written description of the waste generation and management practices for the facility showing that they are consistent with the 180-day limit, and documentation that the generator is complying with the procedures; or
      - (ii) Documentation that the unit is emptied at least once every 180 days.
  - (2) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;
  - (3) While being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste" and complies with labeling requirements in § 1.9.13(G); and
  - (4) The generator complies with the requirements in §§ 1.7.13(H), 1.7.13(I), 1.7.13(J), 1.8.10 and the Land Disposal Restriction requirement of 40 C.F.R. § 268.7(a)(5) as administered by EPA.

C. Hazardous Waste Accumulation in Containers:

1. Hazardous waste may be stored in containers provided that the LQG:
  - a. Marks the side of all containers holding hazardous waste with the date upon which the waste first began to accumulate (accumulation start date).
  - b. Keeps all containers holding hazardous waste closed except when it is necessary to add or remove waste.
  - c. Opens, handles and stores containers holding hazardous waste in a manner that does not, or is not likely to, cause a spill or release of hazardous waste.
  - d. Immediately transfers hazardous waste from any and all containers that are not in good condition as a result of physical or chemical forces that have reduced the containers structural integrity, or if they begin to leak, to a container(s) that is in good condition and compatible with the hazardous waste being transferred.
  - e. Stores all containers holding ignitable or reactive hazardous waste in an area that is at least fifty (50) feet from any property boundary lines.
  - f. Takes precautions to prevent accidental ignition or reaction of ignitable or reactive waste. These wastes must be separated and protected from sources of ignition, incompatible materials and heat. While ignitable or reactive waste is being handled, the generator must confine smoking and open flame to specifically designated locations. "No smoking" signs shall be conspicuously placed wherever there is a hazard from ignitable or reactive waste.
  - g. Uses containers constructed of, or lined with, a material that is chemically compatible with the hazardous waste placed into the containers, so that the ability of the container to hold the waste is not impaired.
  - h. Does not place incompatible wastes in the same container unless the mixing is accomplished so that it does not generate extreme heat or pressure, does not initiate a fire, explosion or violent reaction and does not produce uncontrolled toxic mists, fumes, dust or gases, and does not damage the structural integrity of the container and does not threaten human health or the environment through like means.
  - i. Conducts inspections on a weekly basis of all containers holding hazardous waste for signs of deterioration and/or corrosion of the containers and for any signs of leaks or releases of hazardous waste. The inspection shall also include a visual examination of all

containment systems and devices to ensure that they are free of any cracks, gaps or other imperfections. Generators shall maintain a written record documenting the date of each inspection, the person that conducted the inspection and whether any release was identified, container was replaced or repair needed to containment conditions, and the result of each inspection for a period of at least three (3) years.

- j. Stores hazardous wastes that when mixed would result in an unintended reaction or are otherwise not compatible in separate containers designed to contain the subject hazardous wastes. Containers holding hazardous wastes shall be stored in separate locations from incompatible wastes or materials present on-site and isolated by a physical barrier (e.g., a dike, berm, or wall) constructed of or lined with a material that is resistant to the hazardous waste stored in the area.
  - (1) Does not place hazardous waste in an unwashed container that previously held an incompatible waste or material, unless the conditions in § 1.7.13(C)(1)(h) of this Part are satisfied.
- k. Stores containers holding liquid hazardous waste in an area that has a containment system, or otherwise provide a containment device, that has a capacity of no less than 10% of the total volume of all of the containers in storage or the volume of the largest container, whichever is greater. The containment system or device shall be impervious and compatible with the type of waste held in the containers. The generator shall maintain the containment system or device to ensure that it is free of cracks, gaps or other imperfections that would prevent the system from fully containing any and all spilled or released waste.
- l. Manages all containers holding hazardous waste in accordance with the applicable requirements of 40 C.F.R. § 265 Subparts AA, BB and CC (as administered by EPA).

D. Accumulation in Tanks:

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

2. Tank systems that are used to store or treat hazardous waste which contains no free liquids and are situated inside a building with an impermeable floor are exempted from the requirements for containment and detection of releases in §§ 1.7.13(D)(3)(a) through (e) of this Part except for § 1.7.13(D)(3)(e) of this Part. To demonstrate the absence or presence of free liquids in the stored/treated waste, the following test must be used: Method 9095B (Paint Filter Liquids Test) as described in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” EPA Publication SW-846, as incorporated by reference in 40 C.F.R. § 260.11.
3. Large Quantity Generators storing hazardous waste in tanks shall comply with the following:
  - a. Tank Certification.
    - (1) Existing Tanks storing hazardous waste shall have a secondary containment device that meets the requirements of § 1.7.13(D)(3)(e) of this Part [secondary containment]. Existing tanks storing non-hazardous waste only that is subsequently re-designated for hazardous waste, shall have a registered professional engineer conduct an evaluation of the tank system detailed in § 1.7.13(D)(3)(b) of this Part and certify, in accordance with 40 C.F.R. § 270.11(d), the structural integrity of the system. The evaluation shall be provided within twelve (12) months of the waste’s re-designation date and secondary containment shall be provided within two years of the waste’s re-designation date.
    - (2) New Tanks shall be provided with secondary containment (prior to storing hazardous waste) that meets the requirements of § 1.7.13(D)(3)(e) of this Part and have a registered professional engineer conduct an evaluation of the tank system detailed in § 1.7.13(C)(3) of this Part and certify, in accordance with 40 C.F.R. § 270.11(d), the structural integrity of the system described.
    - (3) Tank System Evaluation for Existing Tanks. If required, per § 1.7.13(D)(3)(a)((1)) of this Part generators shall have the system evaluated by a registered professional engineer. The engineer shall determine if the tank system has adequate structural integrity (and compatibility with the waste(s) to be stored) to retain the designed volume of waste without causing a rupture, failure or release. In addition, the evaluation shall include a review of the following:

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

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

- (AA) Design standards for new tank systems used to construct the tank system and the manufacturer's specifications.
- (BB) Characteristics of the hazardous waste to be stored or that has been stored in the tank and the compatibility of the tank system with said waste.
- (CC) The owner or operator of a new tank system must ensure that proper handling procedures are adhered to

in order to prevent damage to the system during installation. Prior to covering, enclosing, or placing a new tank system or component in use, an independent, qualified installation inspector or a qualified Professional Engineer, either of whom is trained and experienced in the proper installation of tank systems, must inspect the system or component for the presence of any of the following items:

- (i) Weld breaks;
  - (ii) Punctures;
  - (iii) Scrapes of protective coatings;
  - (iv) Cracks;
  - (v) Corrosion;
  - (vi) Other structural damage or inadequate construction or installation. All discrepancies must be remedied before the tank system is covered, enclosed, or placed in use.
- (DD) For any tank system or components in which the external shell of a metal tank or any external metal component of the tank system is or will be in contact with soil or water, the following corrosion assessment details are required: Factors affecting the potential for corrosion, including but not limited to: soil moisture content, soil pH, soil sulfides level, soil resistivity, structure to soil potential, Influence of nearby underground metal structures (e.g., piping), stray electric current and Existing corrosion-protection measures (e.g., coating, cathodic protection), and the type and degree of external corrosion protection that are needed to ensure the integrity of the tank system during the use of the tank system or component, consisting of one or more of the following:
- (i) Corrosion-resistant materials of construction such as special alloys or fiberglass-reinforced plastic;
  - (ii) Corrosion-resistant coating (such as epoxy or fiberglass) with cathodic protection (e.g., impressed current or sacrificial anodes); and

- (iii) Electrical isolation devices such as insulating joints and flanges. The practices described in the National Association of Corrosion Engineers (NACE) standard, “Recommended Practice (RP-02-85)—Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems,” and the American Petroleum Institute (API) Publication 1632, “Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems,” may be used, where applicable, as guidelines in providing corrosion protection for tank systems.
- (EE) The owner or operator must provide the type and degree of corrosion protection necessary, based on the information provided above to ensure the integrity of the tank system during use of the tank system. The installation of a corrosion protection system that is field fabricated must be supervised by an independent corrosion expert to ensure proper installation.
- (FF) Tank systems shall be tested to ensure that they are not leaking, or will not leak, by either having a qualified professional engineer enter the tank system and conduct an interior inspection, or if the tank is non-enterable by conducting a precision leak test on the tank system.
- (GG) For any underground tank system components that are likely to be affected by vehicular traffic, a determination of design or operational measures to protect the tank system from damage and design considerations shall ensure that:
  - (i) Tank foundations will maintain the load of a full tank;
  - (ii) Tank systems will be anchored to prevent flotation or dislodgement where the tank system is placed in a saturated zone, or is located within a seismic fault zone;
  - (iii) Tank systems will withstand the effects of frost heave.

- (HH) The evaluation (and the annual tank system testing, if required) shall be documented in writing and the written report shall be maintained on-site by the generator and shall be made available to Department personnel upon request.
  - (II) All new tanks and ancillary equipment must be tested for tightness prior to being covered, enclosed or placed in use. If a tank system is found not to be tight, all repairs necessary to remedy the leak(s) in the system must be performed prior to the tank system being covered, enclosed, or placed in use.
  - (JJ) Ancillary equipment must be supported and protected against physical damage and excessive stress due to settlement, vibration, expansion or contraction.
  - (KK) The piping system installation procedures described in American Petroleum Institute (API) Publication 1615 (November 1979), "Installation of Underground Petroleum Storage Systems," or ANSI Standard B31.3, "Petroleum Refinery System," may be used, where applicable, as guidelines for proper installation of piping systems.
- b. Tank systems that are leaking or are deemed unfit for use are subject to § 1.7.13(E)(3)(g)((7)) of this Part. All new tanks systems that have leaks shall be repaired to remedy the leaks prior to covering, enclosing or placing the tank systems into service. Also, any signs of damage to new tank systems must be remedied prior to covering, enclosing or placing them into service as required by § 1.7.13(D)(3)(a)((4))(ii) of this Part above.
- c. New Tank System Installation Tasks.
- (1) New tanks systems or components and piping that are placed underground and backfilled, shall use a backfill material that is a non-corrosive, porous, homogeneous substance. The backfill shall be placed completely around the tank and compacted to ensure full and uniform support for the tank and piping.
  - (2) The type and degree of corrosion protection provided shall be based on the corrosion assessment details of 40 C.F.R. § 265.192(a)(3). Installation of the field fabricated corrosion

protection system shall be supervised by an independent corrosion expert.

- d. New Tank System Documentation: written statements required to be stored on-site include the § 1.7.13(D)(3)(a)((2)) of this Part certification statement and statements by persons required to certify the design of the tank system and who supervise the installation of the tank system, attesting that the tank system was properly designed and installed and that any tank system repairs, if needed, per § 1.7.13(D)(3)(c) of this Part, were performed.
- e. Secondary Containment for Tank Systems. Large Quantity Generators shall design and install secondary containment systems in such a manner as to prevent a spill or release of hazardous waste from the system into the environment or into the facility. The containment shall be capable of collecting and containing one hundred percent (100%) of the volume of the design capacity of the largest tank and shall be designed or capable of being operated to drain and remove accumulated waste within 24 hours or as allowed by the Department, based on environmental safety factors. Tank systems, including sumps, as defined in 40 C.F.R. § 260.10, that serve as part of a secondary containment system to collect or contain releases of hazardous wastes are exempted from these requirements. The secondary containment system shall also be (or satisfy the following):
  - (1) Constructed of or lined with materials that are compatible with the hazardous waste stored in the tank system so that the hazardous waste would not be capable of physically or chemically damaging or compromising the integrity of the containment system. The containment system shall be constructed of materials of sufficient thickness and strength to withstand the pressure generated by holding the designed volume of the hazardous waste.
  - (2) Built on a foundation or floor that is free of cracks or gaps, is sealed or coated with a liquid tight compound (epoxy or resin) and capable of withstanding movement caused by settling, uplifting or compression of the underlying soils.
  - (3) Provided with a leak detection system that is capable of detecting, within 24 hours (unless the generator can demonstrate that the condition or current technologies will not allow detection within 24 hours), any release of hazardous waste or accumulation of other liquid from the secondary containment. This leak detection system shall be tested by the

generator on an annual basis to ensure that it remains in an operational state.

- (4) Aboveground tanks that are located outdoors shall have a secondary containment system that is designed or operated to drain off and remove accumulated precipitation to prevent it from reducing the storage capacity of the containment system. The design capacity of the containment system shall be an amount greater than or equal to one hundred percent (100%) of the volume of the aboveground tank system and a volume equivalent to the amount of precipitation generated by a 25-year, 24-hour storm. Prior to releasing or discharging any accumulated precipitation the generator shall visually inspect the accumulated liquid and storage tanks looking for signs of a release of hazardous waste. In the event that visual evidence of a release is observed the generator shall collect a sample of the accumulated liquid and have it analyzed to determine if it meets the definition of hazardous waste. Generators shall manage the accumulated precipitation in accordance with all applicable Federal, State and local regulations pertaining to the discharge of stormwater.
- (5) The containment system shall meet all of the standards listed above and consist of one of the following designs unless prior approval is obtained from the Director for the use of an alternate system;
  - (AA) External liner system: An external liner system shall be designed to completely surround the tank and to cover the entire surrounding ground surface that is likely to come into contact with the waste if a spill or release occurs and be free of cracks and gaps.
  - (BB) Vault systems must be:
    - (i) Designed or operated to contain 100 percent of the capacity of the largest tank within its boundary;
    - (ii) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event;

- (iii) Constructed with chemical-resistant water stops in place at all joints (if any);
  - (iv) Provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;
  - (v) Provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated meets the definition of ignitable waste under 40 C.F.R. § 261.21, or meets the definition of reactive waste under 40 C.F.R. § 261.23 and may form an ignitable or explosive vapor; and
  - (vi) Provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.
- (6) Double walled systems shall be comprised of an inner tank inside an outer shell constructed of, or lined with, a corrosion resistant material that is compatible with the waste. The system shall also have a built-in continuous leak detection system (such as an interstitial monitor) capable of detecting a release within twenty-four (24) hours, unless the generator can demonstrate that site conditions or current technologies will not allow for detection within that time period.
- (7) Ancillary equipment shall be provided with full secondary containment (e.g., trench, jacketing, double-walled piping) that meets the secondary containment requirements in § 1.7.13(D)(3)(e) of this Part above except for:
- (AA) Aboveground piping (exclusive of flanges, joints, valves, and connections) that are visually inspected for leaks on a daily basis;
  - (BB) Welded flanges, welded joints, and welded connections that are visually inspected for leaks on a daily basis;
  - (CC) Sealless or magnetic coupling pumps and sealless valves, that are visually inspected for leaks on a daily basis; and

- (DD) Pressurized aboveground piping systems with automatic shut-off devices (e.g., excess flow check valves, flow metering shutdown devices, loss of pressure actuated shut-off devices) that are visually inspected for leaks on a daily basis.
- (8) Tanks, sumps and other collection devices used in conjunction with drip pads, as defined in 40 C.F.R. § 260.10 and regulated in § 1.7.13(F) of this Part [Drip Pads] must meet the requirements of these rules.
- f. Daily inspection: Generators shall inspect tank systems holding hazardous waste once each operating day (except as provided in item f below) and shall maintain a written record of each inspection. The inspection shall include at least the following:
  - (1) Overfill/spill control equipment (e.g., waste feed cutoff systems, bypass systems and drainage systems) to ensure they are in working order.
  - (2) Visual inspection of the aboveground sections of a tank for signs of corrosion or release of waste.
  - (3) The construction materials and area immediately surrounding the tank system, including the secondary containment system, looking for signs of corrosion and for signs of a release of hazardous waste.
  - (4) Data gathered from any and all monitoring and leak detection equipment that is part of the tank system to ensure that it is operating properly.
  - (5) Ancillary equipment, as described in §§ 1.7.13(C)(3)(f)((1)) through ((4)) of this Part above that is not provided with secondary containment.
  - (6) If cathodic protection systems are present, the owner or operator must inspect them, according to, at a minimum, the following schedule to ensure that they are functioning properly:
    - (AA) The proper operation of the cathodic protection system must be confirmed within six months after initial installation, and annually thereafter; and
    - (BB) All sources of impressed current must be inspected and/or tested, as appropriate, at least bimonthly (i.e., every other month).

- (7) The practices described in the National Association of Corrosion Engineers (NACE) standard, "Recommended Practice (RP-02-85)—Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and the American Petroleum Institute (API) Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," may be used, where applicable, as guidelines in maintaining and inspecting cathodic protection systems.
- g. Generators that store hazardous waste in tanks shall comply with the following requirements:
- (1) Waste Accumulation: Hazardous Waste shall be stored in tanks for a period of time not to exceed ninety (90) days from the date the waste was first placed into the tank.
  - (2) Accumulation Start Date: Generators shall either mark the side of a tank holding hazardous waste with the date the waste first began to accumulate, or maintain a written log that records the date that hazardous waste was first placed into or removed from the tank.
  - (3) Construction: Hazardous waste shall be placed into a tank system that is constructed of, or lined with, material that is compatible with the hazardous waste.
  - (4) Spill Prevention: Appropriate controls and procedures shall be used to prevent spills and overflows from the tank system or secondary containment device. These shall include at least the following:
    - (AA) Spill prevention controls (e.g., check valves);
    - (BB) Overfill controls (e.g., level sensing alarms, high level alarms, automatic waste feed cutoff systems, or by-pass to standby tank);
    - (CC) Maintenance of sufficient freeboard (at least 2 feet) in uncovered tanks to prevent overtopping by wind or wave action or by precipitation.
  - (5) Inappropriate Wastes and Incompatible Wastes: Hazardous wastes or treatment reagents shall not be placed in a tank system if they could cause the tank, its auxiliary equipment, or the secondary containment system to rupture, lead, corrode, or otherwise fail. Incompatible hazardous wastes, or

incompatible wastes and materials shall not be placed into the same tank system if the wastes have the potential to cause the tank to leak or otherwise damage the tank system and unless the generator complies with 40 C.F.R. § 265.17(b) requirements. Hazardous waste shall not be placed in an unwashed tank which previously held an incompatible waste or material, unless the generator complies with 40 C.F.R. § 265.17(b).

(6) Ignitable or Reactive Wastes

(AA) Ignitable or reactive wastes shall not be placed into a tank system unless the generator complies with the requirements in 40 C.F.R. § 265.17(b) and;

- (i) Treats, renders or mixes the hazardous waste so that the waste is no longer ignitable or reactive; or
- (ii) The waste is stored or handled in such a way that it is protected from any material or conditions that may cause the waste to ignite or react; or
- (iii) The tank system is used solely for emergency storage.

(BB) Generators storing ignitable or reactive wastes in tanks shall also locate the tanks on the site away from the public ways or property boundaries in compliance with the buffer zone requirements in Tables 2-1 – 2-6 of the National Fire Protection Association’s “Flammable and Combustible Liquids Code” (1977 or 1981) as per 40 CFR § 260.11(d).

(7) Tank Failure or Leaking Tank: A tank system that fails or leaks waste shall immediately be removed from service. Additionally, the generator shall meet the following requirements:

(AA) Immediately stop the flow of waste to the tank system or to the secondary containment, inspect the tank system to determine the source of the release, and complete repairs, as required below before allowing further use.

- (i) If the cause of the release was a spill that has not damaged the integrity of the system, the

owner/operator may return the system to service as soon as the released waste is removed and repairs, if necessary, are made.

- (ii) If the cause of the release was a leak from the primary tank system into the secondary containment system, the system must be repaired prior to returning the tank system to service.
  - (iii) Major repairs require PE certification of tank re-usability. If the owner/operator has repaired a tank system in accordance with requirements of §§ 1.7.13(D)(3)(g)((1))(AA), ((BB)) and ((DD)) of this Part, and the repair has been extensive (e.g., installation of an internal liner; repair of a ruptured primary containment or secondary containment vessel), the tank system must not be returned to service unless the owner/operator has obtained a certification by a qualified Professional Engineer in accordance with 40 C.F.R. § 270.11(d) that the repaired system is capable of handling hazardous wastes without release for the intended life of the system. This certification is to be placed in the operating record and maintained until closure of the facility.
- (BB) Remove all waste from the tank system within 24 hours of the discovery of the release and manage said waste in accordance with these regulations.
  - (CC) If waste was released to the secondary containment system, the generator shall remove all accumulated hazardous waste from the secondary containment device within 24 hours and manage said waste in accordance with these regulations.
  - (DD) Comply with all requirements relating to release reporting and mitigation from tanks, as required by 40 C.F.R. § 265.196(d).
  - (EE) Prevent further migration of any leaks or spills to soils or surface water, if applicable, and remove and properly dispose of any visible contamination of soil or surface water, if applicable.

(FF) If the source of the release was a leak to the environment from a component of a tank system without secondary containment, the owner/operator must provide the component of the system from which the leak occurred with secondary containment that satisfies the requirements for containment and detection of leaks in §§ 1.7.13(D)(3)(g)((7))((AA))((iii)) of this Part before it can be returned to service, unless the source of the leak is an aboveground portion of a tank system that can be inspected visually. If the source is an aboveground component that can be inspected visually, the component must be repaired and may be returned to service without secondary containment as long as the requirements of § 1.7.13(D)(3)(g)((1))((CC)) of this Part above are satisfied. If a component is replaced to comply with these requirements, that component must satisfy the requirements for new tank systems or components in §§ 1.7.13(D)(3)(a)(AA) through (BB) of this Part. Additionally, if a leak has occurred in any portion of a tank system component that is not readily accessible for visual inspection (e.g., the bottom of an inground or onground tank), the entire component must be provided with secondary containment in accordance with § 1.7.13(D)(3)(e) of this Part prior to being returned to use.

(GG) Unless the owner or operator satisfies the requirements of §§ 1.7.13(E)(3)(g)((7))((AA))((i)), ((ii)) and 1.7.13(E)(3)(g)((7))((FF)) of this Part, the tank system must be closed in accordance with § 1.7.13(E)(3)(g)((8)) of this Part below (Closure and Post Closure Care Actions).

(8) Closure and Post-Closure Care Actions: At closure of a tank system, LQGs must remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated soils, and structures and equipment contaminated with waste, and manage them as hazardous waste (if they meet the definition of such in § 1.5 of this Part). If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required, then the owner or operator must close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills (40 C.F.R. § 265.310). In addition, for the purposes of closure, post-closure, and

financial responsibility, such a tank system is then considered to be a landfill and the closure plan, closure activities, cost estimates for closure, and financial responsibility for tank systems must meet all of the requirements of 40 C.F.R. § 265 Subparts G and H.

E. Containment Buildings:

1. LQGs that store hazardous waste in containment buildings shall comply with the requirements of 40 C.F.R. § 265 subpart DD, including 40 C.F.R. § 265.1102, and the requirements of 40 C.F.R. §§ 265.111 and 265.114. The LQG shall obtain a certification from a professional engineer that the containment building complies with the design standards specified in 40 C.F.R. § 265.1101 prior to operation of the unit and shall maintain the following records at the facility:
  - a. A copy of the professional engineer's certification of the generator's compliance with the design standards in 40 C.F.R. § 265.1101.
  - b. A written description of procedures to ensure that the hazardous waste remains in the containment building for no more than 90 days, a written description of the waste generation and management practices for the facility showing that they are consistent with the 90-day storage limit, and documentation that the generator is complying with the procedures; or
  - c. Documentation that the containment building is emptied at least once every 90 days.

F. Drip Pads:

1. LQGs may store waste on drip pads provided that the generator complies with all of the requirements of 40 C.F.R. § 265 Subpart W and maintains the following records at the facility:
  - a. A written description of procedures that the generator shall follow to ensure that all hazardous wastes are removed from the drip pad and associated collection system at least once every 90 days; and
  - b. Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal.

G. Labeling:

1. Each accumulation container holding hazardous waste shall be labeled with the following information:

- a. The words "Hazardous Waste."
  - b. The chemical or common name of the waste.
  - c. Name, address and EPA Identification Number of the generating facility.
2. Each tank holding hazardous waste shall be labeled with the following information:
    - a. The words "Hazardous Waste."
    - b. The chemical or common name of the waste.
  3. Each satellite accumulation container shall be labeled as required by § 1.7.9 of this Part.

H. Notification and Cleanup of Spills or Releases:

1. In the event of a spill or release of hazardous waste or material that presents any risk of injury to health or the environment, the generator or any other person having knowledge of the spill or release shall immediately notify the Department (daytime- 401-222-1360, 24 hours- 401-222-3070) and provide all requested information dealing with such a spill or release.
2. The generator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within [fifteen \(15\)](#) days after the incident, he/she must submit a written report on the incident to the Department. The report must include:
  - a. Name, address, and telephone number of the owner or operator;
  - b. Name, address, and telephone number of the facility;
  - c. Date, time, and type of incident (e.g., fire, explosion);
  - d. Name and quantity of material(s) involved;
  - e. The extent of injuries, if any;
  - f. An assessment of actual or potential hazards to human health or the environment, where this is applicable; and
  - g. Estimated quantity and disposition of recovered material that resulted from the incident.
3. In accordance with the requirements of 40 C.F.R. § 265.56(b) through (h), the generator shall immediately take steps to prevent, contain and/or clean

up the spill or release of hazardous waste or hazardous material and also remove and properly dispose of any materials contaminated by the spill or release, such as contaminated soil or surface water.

I. Spill Prevention, Response Equipment and Arrangements with Local Authorities:

1. LQGs shall maintain and operate their facilities in a manner that minimizes the possibility of a fire, explosion, or any unplanned spill or release of hazardous waste or hazardous waste constituents to the air, soil, or surface waters of the State.
2. LQGs shall be equipped with the following, unless hazards posed by waste handled at the facility would not require a particular piece of equipment specified below. LQGs shall maintain spill control and emergency equipment at or near all areas where hazardous waste is generated and stored at the facility. The spill control equipment shall be designed to be effective when used on the type of hazardous waste typically generated at the subject facility. LQGs shall keep an amount of spill control equipment on-site at all times that is capable of controlling or absorbing a release of waste equal to the volume of the largest hazardous waste container in a specific area. LQGs shall test all communications systems, alarm systems, fire control equipment and decontamination equipment as necessary to maintain the equipment to ensure its proper operation on at least an annual basis. The communications systems, spill control equipment and emergency equipment/materials shall consist of the following:
  - a. An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel.
  - b. A device, such as a telephone (immediately available at the scene of operations), cell phone, or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams.
  - c. Fire control equipment (including, but not limited to, portable fire extinguishers special extinguishing equipment, such as that using foam, inert gas, or dry chemicals).
  - d. Spill control equipment (including, but not limited to, sorbents, rags, pigs, pads, and drain stops).
  - e. Decontamination equipment (including, but not limited to, eye washer and showers).

- f. Water at adequate volume and pressure to supply water hose streams or foam producing equipment, or automatic sprinklers, or water spray systems.
3. Whenever hazardous waste is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless the Director has ruled that such a device is not required under § 1.7.13(E)(8)(b) of this Part.
4. If there is ever just one employee on the premises while the facility is operating, he must have immediate access to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless the Director has ruled that such a device is not required under § 1.7.13(E)(8)(b) of this Part.
5. Arrangements shall be made or attempted to be made with the appropriate local authorities, in accordance with the requirements of 40 C.F.R. § 265.37.

J. Personnel Training:

1. LQGs who store hazardous waste on-site shall develop and maintain on-site, a written employee training program and shall provide this training to all of its employees whose job duties involve the handling or management of hazardous waste within six (6) months of their initial hiring date. The training program shall be directed by an individual who has been trained in the area of hazardous waste management regulations by a qualified environmental consultant, qualified academic instructor or by having completed a specialized program of study. The training program shall contain and cover at a minimum the following information:
  - a. A definition of regulated hazardous waste and a list of hazardous wastes typically generated or stored by the facility.
  - b. Management procedures that are required to be followed in order to properly handle and store hazardous waste on-site.
  - c. A description of any applicable regulatory exemptions that are utilized by the company for storing and/or managing hazardous waste generated at the facility.
  - d. A description of container and tank labeling and dating requirements as appropriate.
  - e. A description of accumulation (storage) time limits.

- f. Waste pre-transport requirements, including proper use of Uniform Hazardous Waste Manifests.
- g. Proper implementation of the facility's hazardous waste contingency plan, if applicable, including response to fires or explosions and response to groundwater contamination incidents.
- h. Spill prevention and response including procedures for using, inspecting, repairing, and replacing emergency equipment and monitoring equipment, operation of any continuous feed cut-off systems, communication or alarm systems, location and use of emergency response equipment and procedures for the complete shutdown of facility operations.
- i. Proper evacuation procedures and routes.
- j. LQGs shall provide an annual review of the initial training for all of their employees who handle or manage hazardous waste that covers all of the information listed above. LQGs shall also maintain written documentation of the type and amount of training provided to each employee, the employee's name and job title, a description of the employee's duties and qualifications for the job and a dated sign-in sheet for each training session for a period of at least three (3) years from the date employees left the facility, for former employees, or until facility closure for current personnel.

K. Hazardous Waste Contingency Plan:

- 1. Large quantity generators of hazardous waste shall prepare and develop a site specific written hazardous waste contingency plan for their facilities. The contingency plan shall be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water. The provisions of the plan shall be carried out immediately whenever there is a fire, explosion, or release of hazardous waste or hazardous waste constituents that could threaten human health or the environment. The contingency plan requirements also include the following:
  - a. The contingency plan shall include a description of actions to be taken by facility personnel in response to a fire, explosion or any unplanned spill or release of hazardous waste or hazardous materials to the air, soil, or waters of the State.
  - b. The plan shall include a description of the arrangements made with outside emergency responders (police, fire departments, hospitals,

contractors, state and local emergency response teams) to coordinate emergency services to the facility

- c. The plan shall list the names, addresses, and phone numbers (work and home) of all persons qualified to act as emergency coordinators, shall identify one person as the primary emergency coordinator for the company and other persons shall be listed in the order in which they will assume this role, as alternates. The generator shall ensure that at all times there is at least one employee either on the facility premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures. The list of coordinators shall be kept up to date.
- d. The plan shall include a list and description of all emergency equipment (and their capabilities) at the facility (such as fire extinguishers, spill control equipment, communication and alarm systems and decontamination equipment) and shall indicate where such equipment is located throughout the facility. This list shall be kept up to date.
- e. The plan shall include an evacuation plan for personnel where there is a possibility that evacuation may be necessary as the result of a fire, explosion, spill or other emergency. The plan shall describe the signal to be used to initiate the evacuation, the routes to be taken by company personnel and alternate routes in the event of blockage of primary routes.
- f. Generators shall maintain a copy of the current hazardous waste contingency plan at the facility and shall be able to locate the plan immediately in an emergency or upon request for inspection purposes. A copy of the current plan shall be provided to all agencies (fire department, police department, hospital, State or local response agency) that may be called upon to respond to an incident at the facility and/or provide emergency services.
- g. Generators shall review and amend the contingency plan as necessary if any of the following occurs:
  - (1) Applicable regulations are revised.
  - (2) The plan fails to work during an emergency or incident.
  - (3) The generator's facility changes in design, construction, operation, maintenance or other manner that materially increases the potential for fires, explosions, releases of

hazardous waste or changes the logistics for a response to an incident at the facility.

- (4) The list of emergency coordinators changes.
  - (5) The type or amount of emergency equipment is changed.
- h. The Hazardous Waste Contingency Plan shall include a list of emergency procedures to be taken by emergency coordinators that shall include at least the following (if applicable to the facility's operations and the types of hazardous wastes generated):
- (1) The method for activation of alarms or communication systems and notification to DEM (daytime phone 401-222-1360, 24 hour- 401-222-3070) and other agencies with response roles.
  - (2) Whenever there is a release, fire, or explosion, procedures to be carried out by the emergency coordinator(s) to immediately identify the nature and real extent of the hazardous waste involved, assessment of possible hazards to human health or the environment,
  - (3) Emergency procedures to be taken by the emergency coordinator(s) in order to give assistance to outside responders to facilitate evacuation and notification to government officials as required and per § 1.7.13(E)(10)(a)((1)) of this Part.
  - (4) Emergency procedures to be taken by emergency coordinators to ensure that fire, explosions, and releases do not occur, recur or spread to other hazardous waste at the facility.
  - (5) Emergency monitoring procedures of leaks, ruptures, pressure build-up and gas generation to be conducted by emergency coordinators if the facility stops operation in response to a fire, explosion, release or other incident.
  - (6) Emergency procedures to be taken by emergency coordinators to provide for storing, treating, or disposing of all wastes, contaminated soil or surface water, and other materials resulting from a fire, explosion, release or other incident.
  - (7) Emergency procedures to be taken by emergency coordinators to ensure that no waste that is incompatible with the released material is stored, treated or disposed of until

clean-up is completed and all emergency equipment is cleaned and fit for reuse after an incident and procedures for the generator to notify the Department that such measures have been taken.

- (8) The procedure to be taken by the generator to comply with the notification requirements contained in this rule and the notification requirements of 40 C.F.R. § 265.56(i).
- i. The generator or his/her designee shall, in the event of a fire, spill or release, take appropriate action to control and terminate the incident by instituting the measures described in the contingency plan. The generator shall immediately:
  - (1) In the event of a fire, call the fire department or attempt to extinguish the fire using a fire extinguisher.
  - (2) In the event of a fire, explosion or other release that could threaten human health or when the generator has reason to suspect that a spill may cause a release to the environment, the generator shall immediately notify the National Response Center (800-424-8802). The report shall include the following information:
    - (AA) Name and telephone number of person reporting the incident;
    - (BB) The name, address and U.S. EPA Identification Number of the generator;
    - (CC) Date, time and type of incident (e.g., spill or fire);
    - (DD) Quantity and type of hazardous waste involved in the incident;
    - (EE) Extent of injuries, if any;
    - (FF) The possible hazards to human health and the environment outside of the facility;
    - (GG) Estimated quantity and disposal of recovered materials, if any.

L. Waste Shipment:

- 1. LQGs shall send hazardous waste only to a designated facility. The generator shall not send hazardous waste from the property where it is

generated, without preparing a Manifest to accompany the waste, except where 40 C.F.R. § 262.20(f) [transport on a right-of-way within or along a contiguous property] applies and the transporter complies with 40 C.F.R. §§ 263.30 and 263.31 [hazardous waste discharges], nor shall he/she offer hazardous waste to a facility that does not have an EPA I.D. Number, or to a hazardous waste transporter that does not have an EPA I.D. Number and a valid RI Hazardous Waste Transporter Permit as indicated by an official decal on each transportation unit. Use of a permitted hazardous waste transporter and use of a transporter with an EPA I.D. number are not required for those transportation situations where 40 C.F.R. § 262.20(f) applies. The following requirements also apply:

- a. The generator, except for those shipments of exclusively used oil, shall complete the generator section of the Manifest prior to sending any hazardous waste from the property where it is generated. The generator shall complete this section in accordance with the requirements of 40 C.F.R. § 262.20 and the related appendix to 40 C.F.R. § 262 (instructions for the uniform hazardous waste Manifest) and the requirements of these Rules and Regulations. The generator will also note in item 13 of the Manifest if the waste is an R006 waste as defined by the "Rhode Island Hazardous Wastes" definition in § 1.5 of this Part. The generator shall also indicate if the waste is exempt from the generator fee by listing waste codes R011 through R016 if appropriate.
- b. The generator shall complete the generator section of a Manifest prior to the shipment of the waste and shall certify as follows:
  - (1) "I am a large quantity generator. I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment";
- c. The generator shall also maintain a copy of the Manifest for his records. All remaining copies shall be turned over to the hazardous waste transporter and shall accompany the waste through the routing indicated by the generator.
- d. The generator shall obtain the signature of the initial transporter and date of acceptance of the manifest as required by 40 C.F.R. § 262.23(a)(2). The generator shall also instruct the hazardous waste transporter to return the waste or deliver it to an alternate designated facility if he is unable to deliver it to the primary designated facility.

- e. A generator sending or receiving waste to or from a foreign country shall comply with the federal requirements in 40 C.F.R. § 262 Subpart E, 40 C.F.R. § 262 Subpart F and 40 C.F.R. § 262 Subpart H in addition to complying with the applicable state generator requirements.
- f. For shipments of hazardous waste to a designated facility in an authorized State which has not yet obtained authorization to regulate that particular waste as hazardous, the generator must assure that the designated facility agrees to sign and return the manifest to the generator, and that any out-of-state transporter signs and forwards the manifest to the designated facility.
- g. For shipments of hazardous waste within the United States solely by water (bulk shipments only), the generator must send three (3) copies of the manifest dated and signed in accordance with this section to the owner or operator of the designated facility or the last water (bulk shipment) transporter to handle the waste in the United States if exported by water. Copies of the manifest are not required for each transporter.
- h. For rail shipments of hazardous waste within the United States which originate at the site of generation, the generator must send at least three (3) copies of the manifest dated and signed in accordance with this section to:
  - (1) The next non-rail transporter, if any; or
  - (2) The designated facility if transported solely by rail; or
  - (3) The last rail transporter to handle the waste in the United States if exported by rail.
- i. A generator shipping waste via water or rail shall comply with the provisions of 40 C.F.R. § 263.20(e) or (f).
- j. In accordance with 40 C.F.R. § 262.33, before transporting hazardous waste or offering hazardous waste for transportation off-site, an LQG shall placard or offer the initial transporter the appropriate placards according to U.S. Department of Transportation regulations for hazardous materials under 49 C.F.R. § 172 Subpart F.
- k. A generator who does not receive a copy of the manifest with the signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste.

- i. A generator must submit an Exception Report to the Department if he has not received a copy of the manifest with the signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. The Exception Report must include:
  - (1) A legible copy of the manifest for which the generator does not have confirmation of delivery;
  - (2) A cover letter signed by the generator or his authorized representative explaining the efforts taken to locate the hazardous waste and the results of those efforts.
  
- m. A generator shall designate on the Manifest one (1) designated facility that is permitted to handle the waste described on the Manifest. A generator may also designate on the Manifest one (1) alternate designated facility that is permitted to handle his waste in the event an emergency prevents delivery of the waste to the primary designated facility.
  
- n. For rejected shipments of hazardous waste or container residues contained in non-empty containers that are returned to the generator by the designated facility (following the procedures of 40 C.F.R. §§ 264.72(f) or 265.72(f)), the generator must:
  - (1) Sign either:
    - (AA) Item 20 of the new manifest if a new manifest is used for the returned shipment; or
    - (BB) Item 18c of the original manifest if the original manifest is used for the returned shipment;
  - (2) Provide the transporter a copy of the manifest;
  - (3) Within thirty (30) days of delivery of the rejected shipment or container residues contained in non-empty containers, send a copy of the manifest to the designated facility that returned the shipment to the generator; and
  - (4) Retain at the generator's site a copy of each manifest for at least three years from the date of delivery.
  
- o. A generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest

discrepancy provisions of 40 C.F.R. § 264.72 or 40 C.F.R. § 265.72 may accumulate the returned waste on-site in accordance with the requirements of § 1.7.13 of this Part. Upon receipt of the returned shipment, the generator must:

- (1) Sign item 18c of the manifest, if the transporter returned the shipment using the original manifest; or
  - (2) Sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.
- p. For rejected shipments of hazardous waste or container residues contained in non-empty containers that are forwarded to an alternate facility by a designated facility using a new manifest (following the procedures of 40 C.F.R. § 264.72(e)(1) through (6) or 40 C.F.R. § 265.72(e)(1) through (6)), the generator must comply with the requirements of above for exception reporting for the shipment forwarding the material from the designated facility to the alternate facility instead of for the shipment from the generator to the designated facility. For purposes of compliance with exception reporting above, for a shipment forwarding such waste to an alternate facility by a designated facility:
- (1) The copy of the manifest received by the generator must have the signature of the owner or operator of the alternate facility as required by 40 C.F.R. § 262.42(c)(1) in place of the signature of the owner or operator of the designated facility, and
  - (2) The 35/45-day timeframes begin the date the waste was accepted by the initial transporter forwarding the hazardous waste shipment from the designated facility to the alternate facility.
- q. The Director, as he/she deems necessary, may require generators to furnish additional reports concerning the quantities and disposition of wastes identified or listed in 40 C.F.R. § 261.
- r. 40 C.F.R. §§ 262.21 and 262.22 [regarding manifest numbers, obtaining and printing manifest and number of copies of manifests] are incorporated by reference.
- s. The Department has not adopted the federal exemption from manifesting requirements in 40 C.F.R. § 262.20(e) that allows certain waste, reclaimed under certain contractual agreements.

- t. In addition to providing the manifest, a generator must provide a one-time Land Disposal Restriction (LDR) notification to the TSD facility as required by 40 C.F.R. § 268.7(a)(2) and 40 C.F.R. § 268.7(a)(3) as administered by the EPA.

M. Biennial Reports:

1. LQGs as well as those who have treated, stored or disposed of hazardous waste during the reporting period, shall prepare and submit a biennial report (on appropriate forms provided by the Department) in accordance with the provisions of 40 C.F.R. § 262.41. The report shall be submitted to the Department by March 1 of the even-number year that reports hazardous waste activities for the immediately preceding odd-number year. Additional reporting, as per 40 C.F.R. § 262.43, may also be required. Household hazardous waste shall be exempt from reporting in the biennial report.

**1.7.14 Small Quantity Generators (SQGs) Waste Management Requirements**

- A. The following requirements apply to Small Quantity Generators as defined in § 1.5 of this Part. As per § 1.7.6(C) of this Part, if an SQG generates or stores more waste than specified in the definition of an SQG in § 1.5 of this Part, he/she must notify the Department and manage the waste in accordance with the provisions of § 1.7.13 (LQG) of this Part.

B. Hazardous Waste Storage:

SQGs may store hazardous waste on-site for a period of time that does not exceed one hundred eighty (180) days, without first obtaining a storage permit as required by Hazardous Waste § 1.9 of this Part. Hazardous waste may not be stored in containment buildings or drip pads. An SQG who stores hazardous waste for more than 180 days is an operator of a storage facility and is subject to the § 1.10 of this Part operational requirements for treatment, storage, and disposal facilities requirements, 40 C.F.R. § 264, and the permit requirements of § 1.11 of this Part.

C. Hazardous Waste Accumulation in Containers:

1. SQGs may store hazardous waste in containers provided that the generator:
  - a. Marks the side of containers holding hazardous waste with the date upon which the waste first began to accumulate.
  - b. Keeps all containers holding hazardous waste closed except when it is necessary to add or remove waste.
  - c. Opens, handles and stores containers holding hazardous waste in a manner that does not, or is not likely to, cause a spill or release of hazardous waste.

- d. Immediately transfers hazardous waste from any and all containers that are not in good condition as a result of physical or chemical forces that have reduced the containers structural integrity, or if they begin to leak, to a container(s) that is in good condition and compatible with the hazardous waste being transferred.
- e. Stores all containers holding ignitable or reactive hazardous waste in an area that is at least fifty (50) feet from any property boundary lines.
- f. Takes precautions to prevent accidental ignition or reaction of ignitable or reactive waste. These wastes must be separated and protected from sources of ignition, incompatible materials and heat. While ignitable or reactive waste is being handled, the generator must confine smoking and open flame to specifically designated locations. "No smoking" signs shall be conspicuously placed wherever there is a hazard from ignitable or reactive waste.
- g. Uses containers constructed of, or lined with, a material that is chemically compatible with the hazardous waste placed into the containers, so that the ability of the container to hold the waste is not impaired.
- h. Does not place incompatible wastes in the same container unless the mixing is accomplished so that it does not generate extreme heat or pressure, does not initiate a fire, explosion or violent reaction and does not produce uncontrolled toxic mists, fumes, dust or gases and does not damage the structural integrity of the device containing the waste, and does not threaten human health and the environment through other like means.
- i. Conducts inspections on a weekly basis of all containers holding hazardous waste for signs of deterioration and or corrosion of the containers and for any signs of leaks or releases of hazardous waste. Generators shall maintain a written record documenting the date and time of each inspection, the person that conducted the inspection and whether any release was identified, container was replaced or repair needed to containment conditions, of the result of each inspection for a period of at least three (3) years.
- j. Stores hazardous wastes that when mixed would result in an unintended reaction or are otherwise not compatible in separate containers designed to contain the subject hazardous wastes. Containers holding hazardous wastes shall be stored in separate locations from incompatible wastes or materials present on-site and isolated by a physical barrier (e.g., a dike, berm, or wall) constructed

of or lined with a material that is resistant to the hazardous waste stored in the area.

- k. Does not place hazardous waste in an unwashed container that previously held an incompatible waste or material, unless the conditions listed in § 1.7.14(C)(1)(h) of this Part are satisfied.

D. Accumulation in Tanks:

1. SQGs that store hazardous waste in tanks shall comply with all of the requirements listed below. All generators storing hazardous waste in underground storage tanks shall also comply with the Rhode Island Rules and Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials.
2. Tank systems that are used to store or treat hazardous waste which contains no free liquids and are situated inside a building with an impermeable floor are exempted from the requirements for containment and detection of releases in §§ 1.7.14(D)(3)(a) and (b) of this Part. To demonstrate the absence or presence of free liquids in the stored/treated waste, the following test must be used: Method 9095B (Paint Filter Liquids Test) as described in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” EPA Publication SW-846, as incorporated by reference in 40 C.F.R. § 260.11 of this chapter.
3. SQGs storing hazardous waste in aboveground tanks shall comply with the following. Tank systems, including sumps, as defined in 40 C.F.R. § 260.10, that serve as part of a secondary containment system to collect or contain releases of hazardous wastes are exempted from the requirements of items §§ 1.7.14(D)(3)(a) and (b) of this Part.

a. Tank Systems without Containment:

- (1) SQGs that store hazardous waste in tank systems that are not equipped with a secondary containment feature shall inspect the tank systems once each operating day and shall maintain a written record of each inspection. The inspection shall include at least the following:
  - (AA) Overfill/spill control equipment (e.g., waste feed cutoff systems, bypass systems and drainage systems) to ensure they are in working order.
  - (BB) Visual inspection of the aboveground sections of a tank for signs of corrosion or release of waste.

(CC) The construction materials and area immediately surrounding the tank system's discharge confinement structures, if any, looking for signs of corrosion and for signs of a release of hazardous waste.

(DD) Any and all monitoring equipment that is part of the tank system to ensure that it is operating properly.

(EE) The level of the waste in the tank to ensure at least two (2) feet of freeboard.

b. Tank Systems with Containment:

(1) SQGs that store hazardous waste in tank systems that are equipped with a secondary containment feature shall inspect the tank systems once every week and shall maintain a record of each inspection. The inspection shall include at least the following:

(AA) Overfill/spill control equipment (e.g., waste feed cutoff systems, bypass systems and drainage systems) to ensure they are in working order.

(BB) Visual inspection of the aboveground sections of a tank for signs of corrosion.

(CC) The construction materials and area immediately surrounding the tank system's secondary containment, looking for signs of corrosion and for signs of a release of hazardous waste.

(DD) Any and all monitoring equipment that is part of the tank system to ensure that it is operating properly.

(EE) The level of waste in the tank to ensure at least 2 feet of freeboard.

c. SQGs that store hazardous waste in tanks shall comply with all of the following requirements:

(1) Waste Accumulation: Hazardous waste shall be stored in tanks for a period of time not to exceed one hundred-eighty (180) days from the date the waste was first placed into the tank.

(2) Accumulation Start Date: The side of a tank holding hazardous waste shall be marked with the date the waste first began to

accumulate, or a written log shall be maintained that records the date that hazardous waste was first placed into or removed from the tank.

- (3) Construction: Hazardous waste shall be placed into a tank system that is constructed of, or lined with, material that is compatible with the hazardous waste.
- (4) Spill Prevention: Appropriate controls and procedures shall be used to prevent spills and overflows from the tank system or secondary containment device. These shall include at least the following: Spill prevention controls (e.g., check valves); Overfill controls (e.g., level sensing alarms, high level alarms, automatic waste feed cutoff systems, by-pass to standby tank); Maintenance of sufficient freeboard (at least 2 feet) in uncovered tanks to prevent overtopping by wave action.
- (5) Inappropriate Wastes and Incompatible Wastes: Hazardous waste or treatment reagents shall not be placed in a tank if they could cause the tank or its inner liner to rupture, leak, corrode, or otherwise fail before the end of its intended life. Incompatible hazardous wastes, or incompatible wastes and materials, shall not be placed into the same tank system if the wastes have the potential to cause the tank to leak or otherwise damage the tank system and unless the generator complies with 40 C.F.R. § 265.17(b) requirements. Hazardous waste shall not be placed in an unwashed tank which previously held an incompatible waste or material, unless 40 C.F.R. § 265.17(b) is complied with.
- (6) Ignitable or Reactive Wastes: Ignitable or reactive wastes shall not be placed into a tank system unless the generator complies with the requirements in 40 C.F.R. § 265.17(b) and: Treats, renders or mixes the hazardous waste so that the waste is no longer ignitable or reactive; or the waste is stored or handled in such a way that it is protected from any material or conditions that may cause the waste to ignite or react; or the tank system is used solely for emergency storage. Generators storing ignitable or reactive wastes in tanks shall also locate the tanks on the site away from the public ways or property boundaries in compliance with [40 C.F.R. § 260.11 \(d\)\(1\)](#) Table 2-1 through 2-6 of the buffer zone requirements of the National Fire Protection Association's "Flammable and Combustible Liquids Code" (1977 or 1981).

- (7) Tank Failure: a tank system shall immediately be removed from service that fails or leaks waste. Additionally, the generator shall meet the following requirements:
  - (AA) Immediately stop the flow of waste to the tank system, inspect the tank system to determine the source of the release, and complete repairs, as required by 40 C.F.R. § 265.196(e), before allowing further use. Major repairs require the contractor conducting the repair certify that the tank meets the requirements of 40 C.F.R. § 265.196(e);
  - (BB) Remove all waste from the tank system within 24 hours of the discovery of the release and manage said waste in accordance with these regulations;
  - (CC) If waste was released to the secondary containment system, the generator shall remove all accumulated hazardous waste from the secondary containment device and manage said waste in accordance with these regulations.
- (8) Notification of Spills: Comply with the requirements of notification of spills relating to spill reporting and mitigation from tanks.
- (9) Closure Actions: Upon closure of the tank, or termination of the process that generated the waste stored in the tank system, all hazardous waste in tanks, discharge control equipment, and discharge confinement structures shall be removed and properly managed.

E. Labeling:

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

- a. The words "Hazardous Waste."
  - b. The chemical or common name of the waste.
3. Each satellite accumulation container shall be labeled in accordance with § 1.7.9 of this Part.

F. Personnel Training:

1. SQGs shall ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies. They shall also document that each employee has been made aware of proper waste handling and emergency procedures and maintain copies of this information on-site. SQGs who manage their hazardous waste in satellite accumulation containers only are not required to provide training to its personnel provided that they maintain full compliance with the satellite accumulation requirements of § 1.7.9 of this Part. The training program shall be directed by an individual who has been trained in the area of hazardous waste management regulations by a qualified environmental consultant, qualified academic instructor or by a person having completed a specialized program of study. The training program shall contain and cover at a minimum the following information:
  - a. A definition of regulated hazardous waste and a list of hazardous wastes typically generated or stored by the facility.
  - b. Management procedures that are required to be followed in order to properly handle and store hazardous waste on-site.
  - c. A description of any applicable regulatory exemptions that are utilized by the company for storing and/or managing hazardous waste generated at the facility.
  - d. A description of container and tank labeling and dating requirements as appropriate.
  - e. A description of accumulation (storage) time limits.
  - f. Waste pre-transport requirements, including proper use of Uniform Hazardous Waste Manifests.
  - g. Proper implementation of the facility's hazardous waste contingency plan, if applicable, including response to fires or explosions and response to groundwater contamination incidents.

- h. Spill prevention and response including procedures for using, inspecting, repairing, and replacing emergency equipment and monitoring equipment, operation of any continuous feed cut-off systems, communication or alarm systems, location and use of emergency response equipment and procedures for the complete shutdown of facility operations.
- i. Proper evacuation procedures and routes.

G. Notification and Cleanup of Spills or Releases:

1. In the event of a spill or release of hazardous waste or material that presents any risk of injury to health or the environment, the generator or any other person having knowledge of the spill or release shall immediately notify the Department (daytime- 401-222-1360, 24 hours 401-222-3070) and provide all requested information dealing with such a spill or release.
2. The generator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, he/she must submit a written report on the incident to the Department. The report must include:
  - a. Name, address, and telephone number of the owner or operator;
  - b. Name, address, and telephone number of the facility;
  - c. Date, time, and type of incident (e.g., fire, explosion);
  - d. Name and quantity of material(s) involved;
  - e. The extent of injuries, if any;
  - f. An assessment of actual or potential hazards to human health or the environment, where this is applicable; and
  - g. Estimated quantity and disposition of recovered material that resulted from the incident.
3. In accordance with the requirements of 40 C.F.R. § 265.56(b) through (h), the generator shall immediately take steps to prevent, contain and/or clean up the spill or release of hazardous waste or material and also remove and properly dispose of any materials contaminated by the spill or release, such as contaminated soil or surface water.

H. Spill Prevention, Response Equipment and Arrangements with Local Authorities:

1. SQGs shall maintain and operate their facilities in a manner that minimizes the possibility of a fire, explosion, or any unplanned spill or release of hazardous waste or hazardous waste constituents to the air, soil, or surface waters of the State.
2. SQGs shall be equipped with the following, unless hazards posed by waste handled at the facility would not require a particular piece of equipment specified below. SQGs shall maintain spill control and emergency equipment at or near all areas where hazardous waste is generated and stored at the facility. The spill control equipment shall be designed to be effective when used on the type of hazardous waste typically generated at the subject facility. SQGs shall keep an amount of spill control equipment on-site at all times that is capable of controlling or absorbing a release of waste equal to the volume of the largest hazardous waste container in a specific area. SQGs shall test all communications systems, alarm systems, fire control equipment and decontamination equipment as necessary to maintain the equipment to ensure its proper operation on at least an annual basis. The communications systems, spill control equipment and emergency equipment/materials shall consist of the following:
  - a. An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel.
  - b. A device, such as a telephone (immediately available at the scene of operations), cell phone, or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams.
  - c. Fire control equipment (including, but not limited to, portable fire extinguishers special extinguishing equipment, such as that using foam, inert gas, or dry chemicals).
  - d. Spill control equipment (including, but not limited to, sorbents, rags, pigs, pads, and drain stops).
  - e. Decontamination equipment (including, but not limited to, eye washer and showers).
  - f. Water at adequate volume and pressure to supply water hose streams or foam producing equipment, or automatic sprinklers, or water spray systems.
3. Whenever hazardous waste is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access to an internal alarm or emergency communication device, either

directly or through visual or voice contact with another employee, unless the Director has ruled that such a device is not required under § 1.7.14(H)(2) of this Part.

4. If there is ever just one employee on the premises while the facility is operating, he must have immediate access to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless the Director has ruled that such a device is not required under §1.7.14(H)(2) of this Part.
5. Arrangements shall be made or attempted to be made with the appropriate local authorities in accordance with the requirements of 40 C.F.R. § 265.37.

I. Hazardous Waste Contingency Plan:

1. SQGs shall not be required to develop a hazardous waste contingency plan provided that they comply with the following requirements:
  - a. At all times, one employee is on-site, or on call and able to return to the facility in a short period of time, to act as an emergency response coordinator and be responsible for implementing the necessary response measures for the situation.
  - b. The generator shall post the name and telephone number of the emergency response coordinator, telephone number of the local fire department, DEM (day 401-222-1360, 24-hour 401-222-3070), National Response Center (800-424-8802) and the environmental contractor on call to clean up spills next to any and all telephones in the vicinity of the hazardous waste storage area.
  - c. Conspicuously mark the location of fire extinguishers, spill control equipment and fire alarm (if present) and post the location of these items next to any and all phones in the vicinity of the hazardous waste storage area; and
  - d. Take immediate action to clean up any spills or releases of hazardous waste and any contaminated materials or soils. This shall include employing an environmental clean-up contractor if the spill or release exceeds the capabilities of the on-site employees.
2. The emergency coordinator or his designee shall respond to any emergencies that arise. The required responses include but are not limited to:
  - a. In the event of a fire, call the fire department or attempt to extinguish the fire using a fire extinguisher.

- b. In the event of a spill or release attempt to contain the waste using appropriate control equipment. The generator should contact its emergency response contractor for assistance with large spills/releases.
- c. Evacuate the facility if necessary.
- d. In the event of a fire, explosion or other release that could threaten human health or when the generator has reason to suspect that a spill may result in a release to the environment, the generator shall immediately notify the National Response Center (800-424-8802). The report shall include the following information:
  - (1) The name, address and U.S. EPA Identification Number of the generator;
  - (2) Date, time and type of incident (e.g., spill or fire);
  - (3) Quantity and type of hazardous waste involved in the incident;
  - (4) Extent of injuries, if any;
  - (5) Estimated quantity and disposal of recovered materials, if any.

J. Waste Shipment:

- 1. SQGs shall send hazardous waste only to a designated facility. The generator shall not send hazardous waste from the property where it is generated, without preparing a Manifest to accompany the waste, except where 40 C.F.R. § 262.20(f) applies and the transporter complies with 40 C.F.R. §§ 263.30 and 263.31, nor shall he/she offer hazardous waste to a facility that does not have an EPA I.D. Number, or to a hazardous waste transporter that does not have an EPA I.D. Number and a valid RI Hazardous Waste Transporter Permit as indicated by an official decal on each transportation unit. Use of a permitted hazardous waste transporter and use of a transporter with an EPA I.D. number are not required for those transportation situations where 40 C.F.R. § 262.20(f) applies. The following requirements also apply:
  - a. The generator, except for those shipments of exclusively used oil, shall complete the generator section of the Manifest prior to sending any hazardous waste from the property where it is generated. The generator shall complete this section in accordance with the requirements of 40 C.F.R. § 262.20 and the related appendix to 40 C.F.R. § 262 (instructions for the uniform hazardous waste Manifest) and the requirements of these Rules and Regulations. The generator will also note in item 13 of the Manifest if the waste is an R006 waste

as defined by the “Rhode Island Hazardous Wastes” definition in § 1.5 of this Part. The generator shall also indicate if the waste is exempt from the generator fee by listing waste codes R011 through R016 if appropriate.

- b. The generator shall complete the generator section of a Manifest prior to the shipment of the waste and shall certify as follows:
  - (1) “I am a small quantity generator. I have made a good faith effort to minimize my waste generation and select the best waste management method.”
- c. The generator shall also maintain a copy of the Manifest for his records. All remaining copies shall be turned over to the hazardous waste transporter and shall accompany the waste through the routing indicated by the generator.
- d. The generator shall obtain the signature of the initial transporter and date of acceptance of the manifest as required by 40 C.F.R. § 262.23(a)(2). A generator shall also instruct the hazardous waste transporter to return the waste or deliver it to an alternate designated facility if he is unable to deliver it to the primary designated facility.
- e. A generator sending or receiving waste to or from a foreign country shall comply with the federal requirements in 40 C.F.R. § 262 Subpart E, 40 C.F.R. § 262 Subpart F and 40 C.F.R. § 262 Subpart H in addition to complying with the applicable state generator requirements.
- f. For shipments of hazardous waste to a designated facility in an authorized State which has not yet obtained authorization to regulate that particular waste as hazardous, the generator must assure that the designated facility agrees to sign and return the manifest to the generator, and that any out-of-state transporter signs and forwards the manifest to the designated facility.
- g. For shipments of hazardous waste within the United States solely by water (bulk shipments only), the generator must send three copies of the manifest dated and signed in accordance with this section to the owner or operator of the designated facility or the last water (bulk shipment) transporter to handle the waste in the United States if exported by water. Copies of the manifest are not required for each transporter.
- h. For rail shipments of hazardous waste within the United States which originate at the site of generation, the generator must send at least

three copies of the manifest dated and signed in accordance with this section to:

- (1) The next non-rail transporter, if any; or
  - (2) The designated facility if transported solely by rail; or
  - (3) The last rail transporter to handle the waste in the United States if exported by rail.
- i. A generator shipping waste via water or rail shall comply with the provisions of 40 C.F.R. § 263.20(e) or (f).
  - j. In accordance with 40 C.F.R. § 262.33, before transporting hazardous waste or offering hazardous waste for transportation off-site, an SQG must placard or offer the initial transporter the appropriate placards according to U.S. Department of Transportation regulations for hazardous materials under 49 C.F.R. § 172 Subpart F.
  - k. A generator who does not receive a copy of the manifest with the signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste.
  - l. A generator must submit an Exception Report to the Department if he has not received a copy of the manifest with the signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. The Exception Report must include:
    - (1) A legible copy of the manifest for which the generator does not have confirmation of delivery;
    - (2) A cover letter signed by the generator or his authorized representative explaining the efforts taken to locate the hazardous waste and the results of those efforts.
  - m. A generator shall designate on the Manifest one designated facility that is permitted to handle the waste described on the Manifest. A generator may also designate on the Manifest one alternate designated facility that is permitted to handle his waste in the event an emergency prevents delivery of the waste to the primary designated facility.
  - n. For rejected shipments of hazardous waste or container residues contained in non-empty containers that are returned to the generator

by the designated facility (following the procedures of 40 C.F.R. §§ 264.72(f) or 265.72(f)), the generator must:

- (1) Sign either: Item 20 of the new manifest if a new manifest is used for the returned shipment; or
  - (2) Item 18c of the original manifest if the original manifest is used for the returned shipment;
  - (3) Provide the transporter a copy of the manifest;
  - (4) Within 30 days of delivery of the rejected shipment or container residues contained in non-empty containers, send a copy of the manifest to the designated facility that returned the shipment to the generator; and
  - (5) Retain at the generator's site a copy of each manifest for at least three years from the date of delivery.
- o. A generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of 40 C.F.R. § 264.72 or 40 C.F.R. § 265.72 may accumulate the returned waste on-site in accordance with the requirements of § 1.7.14 depending on the amount of hazardous waste on-site in that calendar month. Upon receipt of the returned shipment, the generator must:
- (1) Sign item 18c of the manifest, if the transporter returned the shipment using the original manifest; or
  - (2) Sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.
- p. For rejected shipments of hazardous waste or container residues contained in non-empty containers that are forwarded to an alternate facility by a designated facility using a new manifest (following the procedures of 40 C.F.R. § 264.72(e)(1) through (6) or 40 C.F.R. § 265.72(e)(1) through (6)), the generator must comply with the requirements of above for exception reporting for the shipment forwarding the material from the designated facility to the alternate facility instead of for the shipment from the generator to the designated facility. For purposes of compliance with exception reporting above, for a shipment forwarding such waste to an alternate facility by a designated facility:

- (1) The copy of the manifest received by the generator must have the signature of the owner or operator of the alternate facility as required by 40 C.F.R. § 262.42(c)(1) in place of the signature of the owner or operator of the designated facility, and
  - (2) The 35/45-day timeframes begin the date the waste was accepted by the initial transporter forwarding the hazardous waste shipment from the designated facility to the alternate facility.
- q. The Director, as he/she deems necessary, may require generators to furnish additional reports concerning the quantities and disposition of wastes identified or listed in 40 C.F.R. § 261.
  - r. 40 C.F.R. §§ 262.21 and 262.22 [regarding manifest numbers, obtaining and printing manifest and number of copies of manifests] are incorporated by reference.
  - s. The Department has not adopted the federal exemption from manifesting requirements in 40 C.F.R. § 262.20(e) that allows certain waste, reclaimed under certain contractual agreements.
  - t. In addition to providing the manifest, a generator must provide a one-time Land Disposal Restriction (LDR) notification to the TSD facility as required by 40 C.F.R. § 268.7(a)(2) and 40 C.F.R. § 268.7(a)(3) as administered by the EPA.

K. Biennial Reports:

SQGs shall prepare and submit a biennial report (on appropriate forms provided by the Department) if requested to do so by the Department.

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

A. The following requirements apply to Conditionally Exempt Small Quantity Generators as defined in § 1.5 of this Part. As per § 1.7.6(C) of this Part, if a CESQG generates or stores more waste than specified in the definition of a CESQG in § 1.5 of this Part, he/she must notify the Department and manage the waste in accordance with the provisions of § 1.7.13 (LQG) or § 1.7.14 (SQG) of this Part as appropriate.

B. Hazardous Waste Storage and Conditional Exemption Requirement:

CESQG's may store Hazardous Waste on-site for a period not to exceed three hundred and sixty-five (365) days, without first obtaining a storage permit as

required by Hazardous Waste §1.9 of this Part. Hazardous waste may not be stored in containment buildings or drip pads. A CESQG who stores hazardous waste for more than 365 days is an operator of a storage facility and is subject to the § 1.10 of this Part operational requirements for treatment, storage, and disposal facilities requirements, 40 C.F.R. § 264, and the permit requirements of § 1.9 of this Part.

C. Hazardous Waste Accumulation in Containers:

1. CESQGs may store hazardous waste in containers provided that the generator:
  - a. Marks the side of containers holding hazardous waste with the date upon which the waste first began to accumulate.
  - b. Keeps all containers holding hazardous waste closed except when it is necessary to add or remove waste.
  - c. Opens, handles and stores containers holding hazardous waste in a manner that does not, or is not likely to, cause a spill or release of hazardous waste.
  - d. Immediately transfers hazardous waste from any and all containers that are not in good condition as a result of physical or chemical forces that have reduced the container's structural integrity, or if they begin to leak, to a container(s) that is in good condition and compatible with the hazardous waste being transferred.
  - e. Uses containers constructed of, or lined with, a material that is chemically compatible with the hazardous waste placed into the containers, so that the ability of the container to hold the waste is not impaired.
  - f. Does not place incompatible wastes in the same container unless the mixing is accomplished so that it does not generate extreme heat or pressure, does not initiate a fire, explosion or violent reaction and does not produce uncontrolled toxic mists, fumes, dust or gases and does not damage the structural integrity of the device containing the waste, and that does not threaten human health or the environment through like means.
  - g. Conducts inspections on a weekly basis of all containers holding hazardous waste for signs of deterioration and or corrosion of the containers and for any signs of leaks or releases of hazardous waste. Generators shall maintain a written record documenting the date and time of each inspection, the person that conducted the inspection and whether any release was identified, container was replaced or repair

needed to containment conditions, of the result of each inspection for a period of at least three (3) years.

- h. Stores hazardous wastes that when mixed would result in an unintended reaction or are otherwise not compatible in separate containers designed to contain the subject hazardous wastes. Containers holding hazardous wastes shall be stored in separate locations from incompatible wastes or materials present on-site and isolated by a physical barrier (e.g., a dike, berm, or wall) constructed of or lined with a material that is resistant to the hazardous waste stored in the area.
- i. Does not place hazardous waste in an unwashed container that previously held an incompatible waste or material, unless the conditions in § 1.7.15(C)(1)(f) of this Part are satisfied.

D. Accumulation in Tanks:

CESQGs shall not store hazardous waste in tanks.

E. Labeling:

- 1. Each accumulation container holding hazardous waste shall be labeled with the following information:
  - a. The words "Hazardous Waste."
  - b. The chemical or common name of the waste.
  - c. Name, address and EPA Identification Number of the generating facility.
- 2. Each satellite accumulation container shall be labeled in accordance with § 1.7.9 of this Part.

F. Personnel Training:

Hazardous Waste training is not required for CESQGs.

G. Notification and Cleanup of Spills or Releases:

- 1. In the event of a spill or release of hazardous waste or material that presents any risk of injury to health or the environment, the generator or any other person having knowledge of the spill or release shall immediately notify the Department (daytime- 401-222-1360, 24 hours- 401-222-3070) and provide all requested information dealing with such a spill or release.

2. The generator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, he/she must submit a written report on the incident to the Department. The report must include:
  - a. Name, address, and telephone number of the owner or operator;
  - b. Name, address, and telephone number of the facility;
  - c. Date, time, and type of incident (e.g., fire, explosion);
  - d. Name and quantity of material(s) involved;
  - e. The extent of injuries, if any;
  - f. An assessment of actual or potential hazards to human health or the environment, where this is applicable; and
  - g. Estimated quantity and disposition of recovered material that resulted from the incident.
3. In accordance with the requirements of 40 C.F.R. § 265.56(b) through (h), the generator shall immediately take steps to prevent, contain and/or clean up the spill or release of hazardous waste or material and also remove and properly dispose of any materials contaminated by the spill or release, such as contaminated soil or surface water.

H. Spill Prevention, Response Equipment and Arrangements with Local Authorities:

1. The facility shall be maintained and operated in a manner that minimizes the possibility of a fire, explosion, or any unplanned spill or release of hazardous waste or hazardous waste constituents to the air, soil, or surface waters of the State.
2. Arrangements shall be made or attempted to be made with the appropriate local authorities, in accordance with the requirements of 40 C.F.R. § 265.37.

I. Hazardous Waste Contingency Plan:

1. CESQGs shall not be required to develop a hazardous waste contingency plan provided that they comply with the following requirements:
  - a. At all times, one employee is on-site, or on call and able to return to the facility in a short period of time, to act as an emergency response coordinator and be responsible for implementing the necessary response measures for the situation.

- b. The generator shall post the name and telephone number of the emergency response coordinator, telephone number of the local fire department, DEM (day 401-222-1360, 24-hour 401-222-3070), National Response Center (800-424-8802). and the environmental contractor on call to clean up spills next to any and all telephones in the vicinity of the hazardous waste storage area.
  - c. Conspicuously mark the location of fire extinguishers, spill control equipment and fire alarm (if present) and post the location of these items next to any and all phones in the vicinity of the hazardous waste storage area.; and
  - d. Take immediate action to clean up any spills or releases of hazardous waste and any contaminated materials or soils. This shall include employing an environmental clean-up contractor if the spill or release exceeds the capabilities of the on-site employees.
2. The emergency response coordinator or his designee shall respond to any emergencies that arise. The required responses are as follows:
- a. In the event of a fire, call the fire department or attempt to extinguish the fire using a fire extinguisher.
  - b. In the event of a spill or release attempt to contain the waste using appropriate control equipment. The generator should contact its emergency response contractor for assistance with large spills/releases.
  - c. Evacuate the facility if necessary.
  - d. In the event of a fire, explosion or other release that could threaten human health or when the generator has reason to suspect that a spill may result in a release to the environment, the generator shall immediately notify the National Response Center (800-424-8802). The report shall include the following information:
    - (1) The name, address and U.S. EPA Identification Number of the generator;
    - (2) Date, time and type of incident (e.g., spill or fire);
    - (3) Quantity and type of hazardous waste involved in the incident;
    - (4) Extent of injuries, if any;
    - (5) Estimated quantity and disposal of recovered materials, if any.

J. Waste Shipment:

1. CESQGs shall send hazardous waste only to a designated facility. Waste architectural paints can also be brought to a Paint Collection Center or a Community Collection Center.
2. CESQGs may self-transport hazardous waste provided that wastes are delivered directly to a Community Collection Center. CESQG's may also self-transport waste architectural paints to a Paint Collection Center.
3. Wastes not delivered directly to a Paint Collection Center or Community Collection Center must be sent to a designated facility subject to the requirements below:
4. The generator shall not send hazardous waste from the property where it is generated, without preparing a Manifest to accompany the waste, except for self-transport to a Paint Collection Center or Community Collection Center or where 40 C.F.R. § 262.20(f) applies and the transporter complies with 40 C.F.R. §§ 263.30 and 263.31. The generator also shall not offer hazardous waste to a facility that does not have an EPA I.D. Number, or to a hazardous waste transporter that does not have an EPA I.D. Number and a valid RI Hazardous Waste Transporter Permit as indicated by an official decal on each transportation unit. Use of a permitted hazardous waste transporter and use of a transporter with an EPA I.D. number are not required for those transportation situations where 40 C.F.R. § 262.20(f) applies. The following requirements also apply:
  - a. The generator, except for those shipments of exclusively used oil, shall complete the generator section of the Manifest prior to sending any hazardous waste from the property where it is generated. The generator shall complete this section in accordance with the requirements of 40 C.F.R. § 262.20 and the related appendix to 40 C.F.R. § 262 (instructions for the uniform hazardous waste Manifest) and the requirements of these Rules and Regulations. The generator will also note in item 13 of the Manifest if the waste is an R006 waste as defined by the "Rhode Island Hazardous Wastes" definition in § 1.5 of this Part. The generator shall also indicate if the waste is exempt from the generator fee by listing waste codes R011 through R016 if appropriate.
  - b. The generator shall also maintain a copy of the Manifest for his records. All remaining copies shall be turned over to the hazardous waste transporter and shall accompany the waste through the routing indicated by the generator.

- c. The generator shall obtain the signature of the initial transporter and date of acceptance of the manifest. A generator shall also instruct the hazardous waste transporter to return the waste or deliver it to an alternate designated facility if he is unable to deliver it to the primary designated facility.
- d. For shipments of hazardous waste to a designated facility in an authorized State which has not yet obtained authorization to regulate that particular waste as hazardous, the generator must assure that the designated facility agrees to sign and return the manifest to the generator, and that any out-of-state transporter signs and forwards the manifest to the designated facility.
- e. For shipments of hazardous waste within the United States solely by water (bulk shipments only), the generator must send three copies of the manifest dated and signed in accordance with this section to the owner or operator of the designated facility or the last water (bulk shipment) transporter to handle the waste in the United States if exported by water. Copies of the manifest are not required for each transporter.
- f. For rail shipments of hazardous waste within the United States which originate at the site of generation, the generator must send at least three copies of the manifest dated and signed in accordance with this section to:
  - (1) The next non-rail transporter, if any; or
  - (2) The designated facility if transported solely by rail; or
  - (3) The last rail transporter to handle the waste in the United States if exported by rail.
- g. A generator shipping wastes via water or rail shall comply with the provisions of 40 C.F.R. § 263.20(e) or (f).
- h. In accordance with 40 C.F.R. § 262.33, before transporting hazardous waste or offering hazardous waste for transportation off-site, a CESQG must placard or offer the initial transporter the appropriate placards according to U.S. Department of Transportation regulations for hazardous materials under 49 C.F.R. § 172 Subpart F.
- i. A generator who does not receive a copy of the manifest with the signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste.

- j. A generator must submit an Exception Report to the Department if he has not received a copy of the manifest with the signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. The Exception Report must include:
  - (1) A legible copy of the manifest for which the generator does not have confirmation of delivery;
  - (2) A cover letter signed by the generator or his authorized representative explaining the efforts taken to locate the hazardous waste and the results of those efforts.
- k. A generator shall designate on the Manifest one designated facility that is permitted to handle the waste described on the Manifest. A generator may also designate on the Manifest one alternate designated facility that is permitted to handle his waste in the event an emergency prevents delivery of the waste to the primary designated facility.
- l. For rejected shipments of hazardous waste or container residues contained in non-empty containers that are returned to the generator by the designated facility (following the procedures of 40 C.F.R. §§ 264.72(f) or 265.72(f)), the generator must:
  - (1) Sign either Item 20 of the new manifest if a new manifest is used for the returned shipment; or
  - (2) Item 18c of the original manifest if the original manifest is used for the returned shipment;
  - (3) Provide the transporter a copy of the manifest;
  - (4) Within 30 days of delivery of the rejected shipment or container residues contained in non-empty containers, send a copy of the manifest to the designated facility that returned the shipment to the generator; and
  - (5) Retain at the generator's site a copy of each manifest for at least three years from the date of delivery.
- m. A generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of 40 C.F.R. § 264.72 or 40 C.F.R. § 265.72 may accumulate the returned waste on-site in accordance with the

requirements of § 1.7.15 of this Part depending on the amount of hazardous waste on-site in that calendar month. Upon receipt of the returned shipment, the generator must:

- (1) Sign item 18c of the manifest, if the transporter returned the shipment using the original manifest; or
  - (2) Sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.
- n. For rejected shipments of hazardous waste or container residues contained in non-empty containers that are forwarded to an alternate facility by a designated facility using a new manifest (following the procedures of 40 C.F.R. § 264.72(e)(1) through (6) or 40 C.F.R. § 265.72(e)(1) through (6)), the generator must comply with the requirements of above for exception reporting for the shipment forwarding the material from the designated facility to the alternate facility instead of for the shipment from the generator to the designated facility. For purposes of compliance with exception reporting above, for a shipment forwarding such waste to an alternate facility by a designated facility:
- (1) The copy of the manifest received by the generator must have the signature of the owner or operator of the alternate facility as required by 40 C.F.R. § 262.42(c)(1) in place of the signature of the owner or operator of the designated facility, and
  - (2) The 35/45-day timeframes begin the date the waste was accepted by the initial transporter forwarding the hazardous waste shipment from the designated facility to the alternate facility.
- o. The Director, as he/she deems necessary, may require generators to furnish additional reports concerning the quantities and disposition of wastes identified or listed in 40 C.F.R. § 261.
- p. 40 C.F.R. §§ 262.21 and 262.22 [regarding manifest numbers, obtaining and printing manifest and number of copies of manifests] are incorporated by reference.
- q. The Department has not adopted the federal exemption from manifesting requirements in 40 C.F.R. § 262.20(e) that allows certain waste, reclaimed under certain contractual agreements.

## **1.8 Transporters**

### **1.8.1 Applicability:**

- A. These rules shall apply to all transporters of hazardous waste and septage, except for:
1. On-site transportation of hazardous waste, per 40 C.F.R. § 263.10(b), and on-site transportation of used oil or septage.
  2. Transportation during an explosives or munitions emergency response per 40 C.F.R. § 263.10(e).

### **1.8.2 Permit Requirements:**

- A. No person shall transport any hazardous wastes, used oil or septage, but not including precious metal bearing wastes, in or on the land or waters of the state unless such person shall first have obtained a Hazardous Waste, used oil, or Septage Transporter Permit or temporary permit (as applicable) from the Director. However, this rule shall not apply to the following activities:
1. The transportation of sewage sludge being produced at publicly owned or privately-owned treatment plants, except where the sludge fails EPA's characteristics for hazardous waste as defined in Subpart C of 40 C.F.R. § 261.
  2. The use of non-permitted vehicles to collect and transport hazardous waste or used oil in emergency situations that present a threat to public health and safety. In the event of an emergency situation, the Department shall be immediately notified of each vehicle used for the cleanup and transportation of hazardous waste. After the notification, all collected hazardous waste or used oil shall be managed in accordance with the Department's Rules and Regulations.
  3. The transportation of animal waste produced at farms.
  4. A transporter that transports household refuse, unless he has cause to believe that the household refuse contains hazardous waste.
  5. The use of non-permitted vehicles to transport less than one liter of hazardous waste derived solely as a by-product of sampling activities.
  6. The use of non-permitted vehicles to transport hazardous waste for situations that satisfy 40 C.F.R. § 262.20(f).
  7. The transportation of any hazardous waste defined as a universal waste, per §1.5 of this Part, and being managed as a universal waste.

8. The transportation of waste military munitions (as defined in 40 C.F.R. §§ 266.201 and 266.202) that satisfy the conditions of 40 C.F.R. § 266.203.
  9. The transportation of 55 gallons or less of PCB contaminated waste that does not otherwise meet the definition of hazardous waste, generated at a field service location by a public utility to a generator-owned location that has an existing US EPA Identification Number for the generation of hazardous waste.
  10. Self-transport of hazardous waste generated by a Conditionally Exempt Small Quantity Generator to a facility authorized to accept such waste.
  11. Transportation of household hazardous waste, from households to a Household Hazardous Waste Facility, Community Collection Center or Hazardous Waste Management Facility.
- B. For transporter permits, an application fee of \$100.00 per transportation unit shall be paid by the hazardous waste, used oil or septage transporter. An application fee of \$50 per transportation unit shall be paid by a transporter of septage that is generated in marine vessels. For transporter temporary permits, an application fee of \$25 per transportation unit shall be paid by the hazardous waste, used oil or septage transporter.
- C. The hazardous waste, used oil or septage transporter's permit will be issued for a period not to exceed one (1) year.
- D. The hazardous waste, used oil or septage transporter's temporary permit will be issued for a period not to exceed thirty-one (31) days.
- E. The permit or temporary permit will be granted or renewed only for those hazardous waste, used oil or septage transportation units that are listed on the permit application and that pass self-inspection. A permit decal, or temporary permit decal, as appropriate, will be issued for each transportation unit that passes the inspection. This decal is not transferable to any other transportation units. The transporter shall maintain his permitted transportation units in compliance with inspection requirements, per § 1.8.8 of this Part, at all times. The Department reserves all rights to conduct inspections by Department personnel to verify and ensure compliance with regulatory requirements.
- F. A permitted hazardous waste transporter may also transport shipments of used oil in accordance with the requirements of § 1.16.

### **1.8.3 Permit Application Requirements:**

- A. Applications for a transporter permit or temporary permit shall be submitted to the Director on forms provided by the Department and accompanied by the appropriate permitting fee (as specified in § 1.8.2 of this Part) per transportation unit identified

on the permit application. All transportation units used in the transportation of hazardous waste, used oil or septage shall be included on the permit application.

- B. All transporter applications shall include the following:
1. Name of applicant.
  2. Mailing address.
  3. EPA I.D. No. (hazardous waste and used oil transporters only).
  4. Business phone number.
  5. Name of the owner.
  6. The name, address and phone number of the applicant's personnel who can be reached in case of an emergency.
  7. Year, make, VIN, and registration number of each transportation unit being permitted to transport hazardous waste, used oil or septage.
  8. Locations to be used for the temporary storage (up to 72 hours) of hazardous waste in transportation units.
  9. For hazardous waste transporters only, a criminal background check shall be submitted by the applicant consistent with R.I. Gen Laws § 23-19.1-10(e). Each criminal background check shall be accompanied by a notarized affidavit from the applicant attesting to the veracity of the criminal background check.
- C. The hazardous waste or used oil transporter shall maintain liability insurance, including the hazardous materials rider (MCS 90) as specified in 49 C.F.R. § 387.7(d), sufficient to provide coverage of \$1,000,000.00 (one million dollars) per incident. However, transporters engaged exclusively in the transportation of septage need maintain liability insurance only sufficient to provide coverage of \$300,000.00 (three hundred thousand dollars) per incident.
- D. The hazardous waste transporter shall apply for and obtain an EPA I.D. No. Hazardous waste transporters, covered by the federal system shall apply directly to the Regional Office of the Environmental Protection Agency. Hazardous waste transporters not covered under the federal system shall apply for an EPA I.D. No. through the Department.

#### **1.8.4 General Requirements:**

- A. It shall be the responsibility of the hazardous waste transporter to obtain all other required licenses and permits from other state and federal agencies prior to transporting any hazardous waste.
- B. The transporter is prohibited from transporting extremely hazardous waste (waste bearing the code R006 under item 13 of the Manifest), on the following roads:
- C. Table 1: List of prohibited travel roads for extremely hazardous waste:

Table 1: List of Prohibited Travel Roads for Extremely Hazardous Waste			
Town(s)	Road	From	To
Scituate, Johnston and Foster	Route 6	Route 94 Foster	Hopkins Ave. Johnston
Scituate and Smithfield	Route 116	Scituate Ave. Scituate	Snake Hill Road Smithfield
Scituate and Cranston	Route 12	Route 14 Scituate	Route 116 Scituate
Scituate	Route 14	Route 102	Route 116
Scituate and Foster	Route 102	Route 94 Foster	Snake Hill Road Glocester
Scituate and Foster	Central Pike	Route 94 Foster	Route 102 Scituate
Scituate	Danielson Pike	Route 6	Route 6
Scituate	Rocky Hill and Peepload Rd.	Route 101	Route 116 or Sawmill Road
Foster, Glocester and Scituate	Route 101	Route 94 Foster	Route 6 Scituate

Table 1: List of Prohibited Travel Roads for Extremely Hazardous Waste

Town(s)	Road	From	To
Smithfield and North Smithfield	Reservoir Road	In its entirety	
Smithfield and Lincoln	Route 295	Douglas Pike (Exit 8 of Rt. 295) Lincoln	Route 146 (Exit 9 of Rt. 295)
Warren	School House Road	Birch Swamp Road	Long Lane
Warren	Serpentine Road	In its entirety	
Jamestown	North Main Road	Route 138	East Shore Road
Newport and Middletown	Bliss Mine Road		
Middletown	Miantonomi Avenue	Bliss Mine Road	Valley Road
Middletown	Valley Road	Miantonomi Road	Route 138
Foster	Route 94	Route 101	Route 102 Scituate
Foster and Scituate	Old Plainfield Pike	Route 102	Route 12 Scituate
Middletown	Aquidneck Avenue	Wave Avenue	Valley Road
Middletown	Wave Avenue	In its entirety	

Table 1: List of Prohibited Travel Roads for Extremely Hazardous Waste			
Town(s)	Road	From	To
Little Compton and Tiverton	Route 77	Peckham Road Little Compton	Route 179 Tiverton
Tiverton	Neck Road	In its entirety	
Little Compton	Peckham Road	Route 77	Burchard Road
Little Compton	Burchard Road	In its entirety	
Cumberland	Reservoir Road	Route 114	Massachusetts Line
Cumberland	Route 120	Mendon Road	Massachusetts Line

- E. The roads on which the transportation of extremely hazardous waste is prohibited as listed in § 1.8.4(B) of this Part shall be posted conspicuously in the cab of each vehicle registered to the permittee.
- F. Extremely hazardous waste that is generated on roads on which the transportation of extremely hazardous waste is prohibited may be transported on these roads with prior permission of the Director.
- G. In the event of a spill of hazardous waste by the transporter, he shall notify the Department immediately of the spill. In all cases of spills, the transporter shall immediately take steps to contain and clean up the hazardous waste.
- H. The transporter shall submit to the Department as part of the application the following:
1. A description of the procedures that shall be employed by the transporter, pursuant to § 1.8.9 of this Part in responding to spills or other emergency situations that could arise during transporters' operations. Specific references shall be made to:
    - a. The training or instruction that the hazardous waste transporter personnel shall receive,

- b. The emergency and safety equipment required to be on the transportation unit at all times, and
  - c. The arrangements for emergency services.
- 2. A description of the absorbent material to be used for the cleanup of liquids.
  - I. The transporter of hazardous wastes that are received in Rhode Island or that are destined for delivery to hazardous waste management facilities within Rhode Island shall not accept these wastes unless the containers of these wastes are labeled in accordance with § 1.7 of this Part.
  - J. The transporting vehicle shall be marked on both sides and the back with the name and permit number of the transporter. These markings shall be painted on the vehicle in permanent contrasting colors and shall be visible and legible from a distance of [fifty \(50\)](#) feet (marking size shall be no less than three inches in height). The official waste transporter decal(s) provided by the Department shall be kept clean and legible.
  - K. Transporters of hazardous wastes into the United States or who mix wastes of different USDOT descriptions into a single container shall comply with all generator Rules and Regulations.
  - L. Hazardous waste transporters who deliver hazardous wastes to other hazardous waste transporters shall comply with the provisions of 40 C.F.R. § 263.20(d).
  - M. Transporters of hazardous wastes to foreign countries shall comply with 40 C.F.R. § 263.20(g).
  - N. These Rules and Regulations as applied to transporters of hazardous waste by water (bulk shipment) are modified by 40 C.F.R. 263.20(e) and 40 C.F.R. § 263.22(b).
  - O. These Rules and Regulations as applied to transporters of hazardous wastes by rail are modified by 40 C.F.R. § 263.20(f) and 40 C.F.R. § 263.22 (c).
  - P. Transporters hauling septage shall maintain records indicating the source and estimated volume of septage picked up, the date of shipment, and the receiving Publicly Owned Treatment Works (POTW). All septage shall be delivered to a properly licensed POTW for disposal, unless the Department has given written permission for an alternate method of disposal.

#### **1.8.5 Manifest Handling:**

- A. The transporter of hazardous waste shall not accept any hazardous waste, except septage or used oil, unless the generator section of the Manifest has been completed by the generator.

- B. The hazardous waste transporter shall inspect the waste before accepting the waste to ensure the following:
  - 1. The number of containers matches the number indicated in the generator section of the Manifest.
  - 2. All containers are labeled as required by § 1.7 of this Part.
  - 3. The total quantity of waste, as can be best estimated, matches the quantity indicated in the generator section of the Manifest.
  - 4. That all containers appear sound, free of leaks and for containers of liquid, that they are liquid tight.
- C. The hazardous waste transporter shall complete the transporter's section of the Manifest, sign the Manifest, and leave the manifest copy referenced in the Waste Shipment Requirements (§§ 1.7.13.4(K), 1.7.14(I) or 1.7.15(I) of this Part as appropriate).
- D. The hazardous waste transporter shall keep the completed Manifest, minus the copy given to the generator, with the hazardous waste until received by the consignee.
- E. The hazardous waste transporter will, upon receipt of the hazardous waste by the consignee, remove the transporter copy for his records and turn over the remaining copies to the consignee.
- F. Copy 5 of the Manifest shall be kept by the hazardous waste transporter for a period of three years from the date of the receipt of that waste. The transporter may maintain paper copies or digital copies so long as the digital copies comply with manifest requirements of 40 C.F.R. § 263.22.
- G. The hazardous waste transporter shall deliver the hazardous waste only to the facility designated on the Manifest. If this is not possible, he/she shall contact the generator for further instructions and revise the Manifest in accordance with the generator's instructions.
- H. The hazardous waste transporter will obtain the date and signature of the facility operator at the time of transfer of the waste to the facility.
- I. 40 C.F.R. § 263.20(h) does not apply to hazardous waste transporters.

#### **1.8.6 Record Keeping:**

The hazardous waste or septage transporter shall keep all pertinent records relating to the transportation of hazardous waste or septage for a period of three

years after the waste has been delivered to a designated facility, or for such longer periods as is required in an unresolved enforcement action.

**1.8.7 Personnel, Equipment:**

- A. The transporter of hazardous waste shall provide adequate personnel to ensure the activities conducted are in compliance with all applicable laws and regulations.
- B. The hazardous waste transporter shall make provisions to prevent personnel from wearing clothing that is contaminated with hazardous waste.
- C. The hazardous waste transporter shall have all equipment necessary for transporting the hazardous waste in accordance with these rules and this equipment shall be on the transportation unit, available to the driver, at all times. All equipment shall be maintained in such a manner that it shall be fit for the purposes for which it was intended by the manufacturer.

**1.8.8 Inspections:**

- A. The transporter shall have each transportation unit listed on the application self-inspected annually prior to the receipt or renewal of the permit.
- B. The inspection shall include but not be limited to inspection of:
  - 1. Confirmation of USDOT Motor Carrier Safety Regulation vehicle inspection requirements per 49 C.F.R. § 396.17 and Appendix G of Subchapter B.
  - 2. Proper identification of the transporter clearly painted on the transportation unit, including permit number.
  - 3. Proper vehicle registration(s).
  - 4. Soundness of containment structure (tank, roll-off box trailer, etc.).
  - 5. Ability of tank or other liquid containers and any valves, hoses, pipes, etc., to hold liquids without leaking.
  - 6. Prohibited roads posted (hazardous waste transporters only).
  - 7. Emergency procedure posted.
  - 8. Communication.
  - 9. Protective clothing.
  - 10. Eyewash (at least one pint).
  - 11. First-aid supplies.

12. Absorbent material.
  13. Confirmation of USDOT tanker retesting and inspection (if applicable), as required by 49 C.F.R. § 180.352.
  14. Fire Extinguisher
  15. Shovel
- C. The transporter shall maintain all transportation units used in transportation of hazardous waste or septage, and listed on the application, to insure continual compliance with all of the requirements of these Rules and Regulations.

### **1.8.9 Safety, Accidents**

- A. Hazardous waste transporters shall be equipped with such safety equipment as to minimize chance of fire and explosion and to protect the health and safety of personnel associated with the transportation of hazardous waste and any other person who might come into contact with the waste.
- B. The transporter shall have safety equipment available for use during spills, fires and other emergencies, including a suitable means of communication for summoning aid in an emergency. The transporter shall have and maintain, but not be limited to, the following safety equipment:
1. Protective clothing and equipment to enable personnel associated with the transportation to work safely with the wastes that are accepted by the transporter.
  2. One eyewash apparatus (at least one pint) per vehicle that is readily available in case of emergency.
  3. First-aid supplies that are readily available in case of emergency.
  4. Absorbent Material.
  5. Fire Extinguisher.
  6. Shovel.
- C. The transporter shall make provisions for prompt control of fires, spills and other emergencies.
- D. The transporter shall prepare procedures for personnel to follow in the case of spills of hazardous waste or septage and in the case of fire and other emergencies. The transporter shall post these procedures in a conspicuous place in their transportation unit. In addition, the hazardous waste transporter shall train and

instruct personnel associated with the transportation of hazardous waste in these procedures. The hazardous waste transporter shall maintain records of the training and instruction programs that are held.

- E. The transporter shall collect hazardous waste or septage that is accidentally discharged from a designated hazardous waste or septage vehicle. The transporter shall collect soil contaminated by such discharge. Such collection shall be as rapid and thorough as possible. The hazardous waste transporter shall handle and dispose of such waste and soil in compliance with these Rules and Regulations.
- F. The transporter shall report immediately to the Rhode Island Department of Environmental Management all accidental discharges/spills of hazardous wastes or septage or any other incident or accident that results or could result in a hazard to the public health and safety, or to the environment within the State of Rhode Island. The hazardous waste transporter shall also comply with the notification procedures and incident reports required by 49 C.F.R. §§ 171.15 and 171.16 regarding accidental discharge or spillage of hazardous materials or wastes. The Director may require that a written report of the incident or accident be provided to him.

#### **1.8.10 Decontamination:**

Equipment used to handle hazardous waste; including, but not limited to, storage containers, processing equipment, trucks and loaders that are contaminated with hazardous waste; shall be decontaminated prior to being serviced or used for transportation of non-hazardous waste if servicing or use of contaminated equipment would cause a hazard to any person. Contaminated wash water, waste solutions or residues generated from washing or decontaminating the equipment shall be collected and disposed of as hazardous wastes in compliance with these rules.

#### **1.8.11 Containerization of Hazardous Waste:**

The transporter of hazardous waste shall not handle containerized hazardous waste unless the containers are constructed and maintained in accordance with the requirements of 49 C.F.R § 178 Transportation.

#### **1.8.12 Powder, Dust, Fine Solids:**

To prevent hazardous waste from being blown by the wind, hazardous waste in the form of powder, dust or a fine solid shall be handled, stored and disposed of in covered containers.

#### **1.8.13 Gases, Mists, Vapors:**

Hazardous wastes that are capable of releasing hazardous gases, mists or vapors in excess of existing air quality standards or where the emitted hazardous

materials could result in a hazard to public health and safety or the environment shall be handled in covered containers.

#### **1.8.14 Spill Control Equipment:**

The hazardous waste transporter, when transporting liquid hazardous waste in containers, shall have absorbent mats or materials on the vehicles capable of absorbing ten percent of the hazardous wastes in the event of a leak or spill. When transporting liquid hazardous waste in tank trucks, the hazardous waste transporter shall have a shovel and absorbent mats or materials on the vehicle capable of absorbing small leaks as may occur when hoses are disconnected.

#### **1.8.15 Temporary Storage of Waste by Transporters:**

- A. The following standards apply to transporters that temporarily store wastes in their vehicles. For standards for temporary transfer and storage facilities, see § 1.11 of this Part.
1. A permitted transporter of hazardous waste may store such waste in their vehicle at their business location, without the business having a Hazardous Waste Temporary Transfer and Storage Facility Letter of Authorization, for up to and not exceeding seventy-two (72) hours, excluding Sundays and federal and Rhode Island legal holidays, provided the following conditions are met:
    - a. No waste is loaded onto or unloaded from the vehicle, even for the purpose of consolidation of loads.
    - b. The site and vehicle are secured to prevent unauthorized access.
  2. Temporary storage of hazardous waste or used oil in the transporting vehicle at the location of a breakdown of the vehicle will only be allowed if the transporter notifies the Department of the location of the vehicle and the estimated time for repairs.
  3. Transporters that operate Temporary Transfer and Storage Facilities shall comply with the requirements outlined in § 1.11 of this Part.

#### **1.8.16 Inspection; Right of Entry:**

- A. Pursuant to R.I. Gen. Laws § 23-19.1-12, the Director may:
1. Enter any hazardous waste management facility, or any place that the Director has reason to believe hazardous wastes are generated, stored, treated, or disposed of;

2. Inspect vehicles that the Director has reasonable grounds to believe are being used for the transportation of hazardous wastes;
  3. Inspect and obtain samples of any waste or other substance, labels, containers of waste or other substance, or samples from any portion of the facility and from any vehicle in which hazardous wastes are transported or in which the Director has reason to believe hazardous wastes are transported;
  4. Inspect and copy records, reports, information, or test results kept or maintained at a hazardous waste management facility.
- B. As per R.I. Gen. Laws § 23-19.1-12 any person obstructing or hindering, or in any way causing to be obstructed or hindered, the Director from the performance of his duties, or who shall refuse to permit the Director entrance to any premises, building, vehicle, plant or equipment, in the performance of his duties, shall be guilty of a misdemeanor and fined not more than five hundred dollars (\$500.00).

**1.8.17 Hazardous Waste Generation Fee:**

- A. The hazardous waste transporter shall collect a fee for hazardous waste that is generated in Rhode Island.
- B. The collected fee shall be in the amount of 2.3 cents per pound or 19 cents per gallon. The fee shall be paid for all eligible waste accepted for transportation within a quarter and is due no later than thirty (30) days after the end of the quarter. The fee shall be paid in the form of a check made payable to "Rhode Island General Treasurer" and shall be included with the quarterly transporter report as described in § 1.9.18 of this Part. The fees shall be collected and deposited in the Department's Emergency Response Fund.
- C. Non-hazardous Waste and waste bearing Rhode Island Fee Exemption Waste Codes (R011-R016) as defined in § 1.5 of this Part are exempted from the fee.

**1.8.18 Reporting requirements:**

The hazardous waste transporter shall submit quarterly reports for all waste that is picked up from generators in Rhode Island using a Manifest. The report shall be prepared in accordance with the Department's standard for quarterly reports. Each report shall contain the required data elements for all wastes accepted for transportation within that quarter and is due no later than thirty (30) days after the end of the quarter. If no waste is accepted during the quarter, the hazardous waste transporter shall notify the Department in writing that no eligible waste was transported in that period of time.

## 1.9 Issuance, Renewal and Conditions of Facility Permits

- A. Applicability: This rule shall apply to treatment, storage and disposal facilities. This rule does not apply to:
1. Facilities that operate in accordance with the § 1.11 of this Part as temporary transfer and storage facilities.
  2. Generators doing exempt treatment (evaporation units, totally enclosed treatment, emergency treatment) as described in § 1.7.2(A)(4) of this Part.
  3. Generators performing corrective action in accordance with § 1.18 of this Part.
  4. Generators treating wastewater in wastewater treatment units described in § 1.9(B)(1)(h) of this Part.
- B. Incorporation of 40 C.F.R. § 270 Federal Regulations regarding Treatment, Storage and Disposal Facilities
1. 40 C.F.R. § 270 is incorporated by reference in its entirety except as provided below and except as provided in § 1.18 of this Part and except as otherwise noted in these Rhode Island Hazardous Waste Regulations:
    - a. In 40 C.F.R. § 270.1(b) introduction, revise the third sentence to read “Treatment, storage, and disposal facilities (TSDs) are subject to permitting under RCRA.”
    - b. In the first sentence of 40 C.F.R. § 270.1(c), delete “in 40 C.F.R. § 261” and substitute “in these Rhode Island Hazardous Waste Regulations”. In the second sentence of 40 C.F.R. § 270.1(c), delete “in § 270.2” and substitute “in these Rhode Island Hazardous Waste Regulations.” Also, add after the second sentence “No person shall construct, substantially alter, or operate any hazardous waste management facility, nor shall any person store, treat or dispose of any hazardous waste, except as exempted by these Rhode Island Hazardous Waste Regulations, without first obtaining a permit from the Director for the facility or activity.”
    - c. In 40 C.F.R. § 270.1(c) replace the sentence “Owners and operators of hazardous waste management units shall have permits during the active life (including the closure period) of the unit.” with “ Owners and operators of hazardous waste management units and all persons who shall construct, substantially alter, or operate hazardous waste treatment, storage or disposal facilities or who shall treat, store or dispose of hazardous waste (except as exempted by these regulations) shall first obtain operating permits from the Director for

such activities and shall have permits during the active life (including the closure period) of the units or facilities.”

- d. Delete 40 C.F.R. § 270.1(c)(1)(iii), 40 C.F.R. §§ 270.1(c)(2)(ii), and 270.1(c)(2)(ix). These exemptions do not apply in Rhode Island. In 40 C.F.R. § 270.1(c)(2)(iii), delete “40 C.F.R. § 261.4 and substitute “those parts of 40 C.F.R. § 261.4 adopted by Rhode Island.” In 40 C.F.R. § 270.1(c)(2)(vi), replace “ten days” with “seventy-two hours.” Also, add to the end of the provision: “Temporary Transfer and Storage Facilities shall meet the requirements specified in § 1.11 of this Part.
- e. In 40 C.F.R. § 270.1(c)(2) add a sub-paragraph “(x) Owners and operators of facilities that accept, treat, and/or store only precious metal bearing waste and do not speculatively accumulate such waste [as defined in 40 C.F.R. § 261.1(c)]. These facilities are subject to the requirements of 40 C.F.R. § 266 Subpart F.”
- f. Delete existing language in 40 C.F.R. § 270.1(c)(2)(i) and replace with “Generators who accumulate hazardous waste on-site in accordance with Hazardous Waste Storage Requirements of § 1.7 of this Part.
- g. In 40 C.F.R. § 270.1(c)(2)(v) delete existing language and replace with the following: “The owners or operators of elementary neutralization units as defined in 40 C.F.R. § 260.10. Also, the owners and operators of wastewater treatment units provided that all of the following conditions are met for each unit:
  - (1) The unit receives and treats or stores an influent wastewater that is a hazardous waste or generates and accumulates a wastewater treatment sludge that is a hazardous waste or treats or stores a wastewater treatment sludge that is a hazardous waste.
  - (2) The unit is being used to legitimately treat only wastewater, as defined at 47 Fed. Reg. 4706 (Feb. 2, 1982) (note: Concentrated hazardous wastes are not covered by this exemption. The disposal of concentrated hazardous waste down the drain is prohibited.)
  - (3) The unit is a tank or tank system as defined in 40 C.F.R. § 260.10 (e.g., wastewaters when stored or transported in containers are not covered by the exemption),

- (4) the unit has a current ongoing discharge to surface waters or the sewers that is on-site and is subject to regulation under Section 402 or 307(b) of the Federal Clean Water Act and R.I. Gen. Laws § 46-12-5, as amended (e.g., zero discharge units such as evaporators are not covered by this exemption).
  - (5) The unit has been specifically described in a water permit application (e.g., in a schematic diagram) and specifically referenced in a water permit as being part of the facilities subject to regulation under the Federal Clean Water Act and R.I. Gen. Laws § 46-12-5 (e.g., tanks used to store hazardous wastewaters or sludges not covered by a water permit application and permit are not covered by this exemption). Provided that any sludge or other waste materials generated from an elementary neutralization unit or a wastewater treatment unit shall be managed as a hazardous waste if such sludge or waste material meets the criteria of a hazardous waste. The full Hazardous Waste Regulations apply to such sludge or other waste material when it leaves the exempted elementary neutralization unit or exempted wastewater treatment unit, e.g., when a sludge is stored in containers on-site. For zero discharge units, the hazardous waste requirements apply both to any hazardous wastewaters and to any hazardous sludges, when either is generated.”
- h. In 40 C.F.R. § 270.1(c)(2)(viii)(C) delete the word “and”.
  - i. Add 40 C.F.R. § 270.1(c)(2)(viii)(E): “Used electronics as described in § 1.14.2 of this Part.”
  - j. Add 40 C.F.R. § 270.1(c)(2)(viii)(F): “Silver-containing photo fixing solutions as described in § 1.14.3 of this Part.
  - k. Add as 40 C.F.R. § 270.1(c)(2)(xi): “The re-use, recycling, or reclamation of hazardous waste when exempted from permitting by 40 C.F.R. § 261.6 as incorporated by reference with limitations in the “Hazardous Waste” definition in § 1.5 of this Part.
  - l. Add as 40 C.F.R. § 270.1(d): “Additional Permit restrictions for landfills and/or incinerators. In addition to the other requirements incorporated by the Rhode Island Hazardous Waste Regulations:
    - (1) Operating permits will be granted only for those incinerator or landfill facilities that the applicant can show, by a preponderance of evidence, will be located, designed, constructed and operated so as to prevent all of the following:

- (AA) Endangerment of an underground drinking water source beyond the facility boundary.
  - (BB) Endangerment of an aquifer that has been designated as a sole source aquifer.
  - (CC) Contamination of soil, groundwater, or surface water by discharge by any surface or sub-surface means causing a violation of any Rule or Regulation or standard of any federal or Rhode Island agency.
- (2) Operating permits will not be granted for incinerator and/or landfill facilities which are to be located or are located in a one-hundred-year flood plain, a wetland, the direct recharge area of an existing or planned surface or groundwater community water system, the direct recharge area of a sole source aquifer or a coastal high hazard area, an active fault area or critical habitat.
- (3) Operating permits will be granted only for those incinerator and/or landfill facilities for which an easement is granted to the state of Rhode Island. This easement shall be recorded in the land evidence records in the city or town where the land is located, shall describe the entire facility, and have as its purposes the identification of the facility and its use as a hazardous waste disposal and/or treatment facility and the allowance of access to the property by the Director for the purpose of inspection, testing and investigations relating to protection of public health and the environment.”
- m. In 40 C.F.R. § 270.2 delete the definition of “Existing hazardous waste management (HWM) facility or existing facility” and replace with: “Existing hazardous waste management (HWM) facility or existing facility means a hazardous waste management facility that is in operation on or before November 19, 1980.”
- n. In 40 C.F.R. § 270.2 delete the definition of “New Hazardous Waste Management (HWM) facility or new facility” and replace with: “New Hazardous Waste Management (HWM) facility or new facility means a hazardous waste management facility that began operation after November 19, 1980.”
- o. In 40 C.F.R. § 270.2 “Permit” definition, delete the words “and standardized permit (subpart J of this Part)”.
- p. In 40 C.F.R. § 270.2 delete the “Standardized permit” definition.

- q. Delete 40 C.F.R. § 270.10(a)(5) and (a)(6).
  - r. Add as 40 C.F.R. § 270.10(c)(1): “The combined application and permit fee shall be twenty-five thousand dollars (\$25,000) for the issuance of a new permit and ten thousand dollars (\$10,000) for the renewal of a permit. Additional charges, if any, shall be determined by R.I. Gen. Laws § 23-19.1-14, as in effect at the time.”
  - s. Delete 40 C.F.R. § 270.10(e)(1)(iii).
  - y. In 40 C.F.R. §§ 270.10(f)(1) and 270.10(f)(2), delete the wording “Except as provided in paragraph (f)(3) of this section,” and delete 40 C.F.R. § 270.10(f)(3).
  - u. Delete 40 C.F.R. § 270.10(h)(2).
  - v. Delete the contents of 40 C.F.R. § 270.10(l). Rhode Island has not adopted the exemption addressed by that federal provision. Instead, add as 270.10(l) the following Rhode Island provision regarding inspections: “Inspections
    - (1) The Department shall make or cause to be made such inspections, take such tests and samples and make such investigations as it deems necessary at an applicant’s facility.
    - (2) The Department or other designated authorized personnel shall conduct inspections and shall have the right to enter without prior notice to inspect any hazardous waste management facility or proposed hazardous waste management facility for which an application has been received. Any application shall constitute permission for and willingness to comply with inspections, tests and investigations by the Director or his agents.
    - (3) The Department shall be afforded reasonable opportunity by the applicant to view the facility, examine records, obtain such required information as may be needed for inspection, testing and investigation, including the monitoring of any substances, and requiring the submission of reports. Refusal to allow reasonable inspections, tests or investigations or to submit reports shall constitute valid grounds for denial of a permit.”
23. In 40 C.F.R. § 270.13(j) replace the words “listed or designated under 40 C.F.R. § 261” with the words “, as defined in § 1.5 of this Part and replace the words “such wastes” with the words “each of such wastes” for all instances.

24. In 40 C.F.R. § 270.13(l) add, after the last sentence, “The facility, at minimum, shall be outlined on a copy of the latest USGS Topographical Map.”
25. In 40 C.F.R. § 270.13 add a subparagraph “(o) For privately owned facilities, a list of the direct and indirect owners of the facility whether individual, partnership or corporation. For corporate owned facilities, include all officers, directors, and other persons owning ten percent (10%) or more of the corporate stock.”
26. In 40 C.F.R. § 270.13 add a sub-paragraph “(p) A list of all owners of property, including addresses, within 500 feet of the perimeter of the facility.”
27. In 40 C.F.R. § 270.13 add a sub-paragraph, “(q) All plans, drawings, and maps shall be stamped by a professional engineer or land surveyor, as appropriate, registered with the State of Rhode Island. All plans, drawings, and maps shall be scaled to fit a standard 24 x 36 inch sheet wherever possible and shall be submitted in duplicate.”
28. In 40 C.F.R. § 270.13 add a sub-paragraph, “(r) The EPA Identification Number (I.D. No.) for both facilities covered by the federal I.D. number system and facilities not covered under the federal I.D. number system, shall be obtained from the Department.”
29. In 40 C.F.R. § 270.14(b)(4) delete “, or a justification demonstrating the reasons for requesting a waiver of this requirement”
30. In 40 C.F.R. § 270.14(b)(5) delete “264.1033, 264.1052, 264.1053, 264.1058, 264.1084, 264.1085, 265.1086, and 264.1088”.
31. Replace 40 C.F.R. § 270.14(b)(6) with “(6) A description of the preparedness and prevention plan, as required by 40 C.F.R. § 264 Subpart C.”
32. In 40 C.F.R. § 270.14(b)(7) delete “, and 264.200”. Rhode Island is not authorized to administer the referenced regulations under 40 C.F.R. § 264, subparts AA, BB and CC (RCRA air emissions regulations). Rather, the EPA directly administers the subparts AA, BB and CC regulations in Rhode Island.”
33. Delete 40 C.F.R. §§ 270.14(b)(11)(i and ii), 270.230(d)(4), and 270.14(b)(18) (not applicable in Rhode Island).
34. In the 40 C.F.R. § 270.14(b)(19) introduction, replace the words “61.0 meters (200) feet” with the words “30.5 meters (100) feet” and prior to the phrase “The map shall clearly show the following:”, add the sentence “The

contour interval shall also be sufficient to show patterns of surface drainage within 1000 feet of the perimeter of the facility.”

35. In each of 40 C.F.R. § 270.14(b)(19)(ii), (iv), and (xi) add the sentence, “ Include all within 1000 feet of the perimeter of the facility.” Revise 40 C.F.R. § 270.14(b)(19)(iii) to read “ Surface waters including intermittent streams, water courses, and watersheds of public surface water supplies; all within 1000 feet of the perimeter of the facility.”
36. In 40 C.F.R. § 270.14(b)(19)(vii) add the phrase, “Also, all property lines within 500 feet of the perimeter of the facility.”
37. Revise 40 C.F.R. § 270.14(b)(19)(ix) to read, “On-site wells and off-site public and private drinking water supply wells, within 1000 feet of the perimeter of the facility.”
38. In 40 C.F.R. § 270.14(b)(19) add a sub-paragraph, “(xiii) All water lines within 500 feet of the perimeter of the facility.”
39. In 40 C.F.R. § 270.14(b) add a sub-paragraph, “(23) For facilities that are not regulated units as defined in 40 C.F.R. § 264.90(a)(2), a groundwater monitoring plan capable of determining the facility's impact on the groundwater in the uppermost aquifer underlying the facility. This plan shall supply information equivalent to that required by 40 C.F.R. § 264.90-100 for regulated units. The Director may waive this requirement upon written request of the operator where documented and demonstrated evidence is provided that any leakage or spillage of hazardous waste to the ground will be minimized to the greatest extent possible.”
40. In 40 C.F.R. § 270.14(b) add a sub-paragraph, “(24) A description of the manifest handling procedures of the facility.”
41. In 40 C.F.R. § 270.14 add a sub-paragraph, “(e) All plans, drawings, and maps shall be stamped by a professional engineer or land surveyor, as appropriate, registered with the State of Rhode Island. All plans, drawings, and maps shall be scaled to fit a standard 24 x 36-inch sheet wherever possible and shall be submitted in duplicate.”
42. Delete 40 C.F.R. §§ 270.15(e), 270.16(k), 270.17(j), 270.24, 270.25, and 270.27. Rhode Island is not authorized to administer the referenced regulations under 40 C.F.R. § 264, subparts AA, BB and CC (RCRA air emissions regulations). Rather, the EPA directly administers the subparts AA, BB and CC regulations in Rhode Island.”
43. In 40 C.F.R. § 270.15 add a new sub-paragraph, “(e) Where ignitable or reactive wastes are stored, a description of procedures used to ensure compliance with 40 C.F.R. § 264.176.”

44. Delete 40 C.F.R. § 270.22. Rhode Island has not adopted the requirements for boilers and industrial furnaces to which this provision relates. Rather, the EPA directly administers these requirements in Rhode Island.
45. Add the following as the new first paragraph of 40 C.F.R. §270.30 (to precede the existing.
  - 40 In 40 C.F.R. § 270.30 introductory paragraph): “The permit shall apply only to the facility in operation at the time the permit is issued. Separate permits shall be required for facilities that are located in separate geographic areas even though they are under the same management. Separate permits may be issued for distinct parts of a facility that can be identified as separate units.”
46. Add at the end of 40 C.F.R. § 270.30(a) “Whenever the Department determines that a permitted hazardous waste facility is not in compliance with all of the appropriate Rules and Regulations established by the Department, or that the permitted facility is not being operated in conformance with approved plans or permit conditions, it may order the permittee to take whatever corrective action is needed to secure compliance with the Rules and Regulations established by the Department.”
47. In 40 C.F.R. § 270.30(g) add the sentence “Any permit issued hereunder shall be the property of the State and loaned to a permittee and shall be maintained on the facility and kept visible.”
48. In 40 C.F.R. § 270.30(h) replace “records” with “records and reports”
49. In 40 C.F.R. § 270.30(i)(1), after the word “times”, add “, without prior notice,”
50. Add as 40 C.F.R. § 270.30(i)(5): “Perform tests and inspections as the Department deems necessary to determine compliance with permit.”
51. At the start of 40 C.F.R. § 270.30(l)(3), after the word “Transfers,.” add the sentence: “Prior to a change in ownership of the facility or legal entity operating the facility or location or discontinuance of services, the Director shall be notified.” Also, in 40 C.F.R. § 270.30(l)(3) in the second sentence after the word “Director” replace the word “may” with “shall”.
52. Add 40 C.F.R. § 270.30(n) “Inspection reports and correction of deficiencies
  - a. Hazardous waste facilities may be given prompt notice by the Department of deficiencies discovered as a result of an inspection, test or investigation.

- b. The permittee, upon notification, shall be responsible to take immediate steps to correct any adverse impact on the environment resulting from noncompliance and shall not have a defense in any legal action that it would have been necessary to halt or reduce operations in order to achieve compliance.”
- 53. In 40 C.F.R. § 270.31 title replace “Requirements for recording and reporting of monitoring results” with “Permit Specifications”
- 54. Add as 40 C.F.R. § 270.31(d): “All reporting requirements of operational activities.”
- 55. Add as 40 C.F.R. § 270.31(e): “The name and location of the facility.”
- 56. Add as 40 C.F.R. § 270.31(f): “A complete description of the operations at the facility requiring a permit with particular attention paid to any operational limitations and design capacity.”
- 57. Add as 40 C.F.R. § 270.31(g): “A complete description of the hazardous wastes stored and/or treated and/or disposed of at the facility.”
- 58. Add as 40 C.F.R. §270.33(a)(1)(i): “New facilities shall be in compliance with the Rhode Island Hazardous Waste Regulations prior to receiving an operating permit. Existing facilities may receive a permit prior to compliance with the Rhode Island Hazardous Waste Regulations only in those instances where a compliance schedule is an integral part of the permit.”
- 59. In 40 C.F.R. § 270.40(b) delete from the first sentence “or as a routine change with prior approval under 40 C.F.R. § 124.213.” Also, add after the third sentence (after the word “Director.”): “The new entity, prior to commencing as owner or operator of the facility, shall also submit to the Director information indicating its technical ability to safely operate the facility, its financial ability to maintain such facility, and any additional information the Director may request. After a review of this information, the Director shall either approve or disapprove the transfer of the permit.” Also, add just prior to the fourth sentence (before the word “When”): “If the Director approves of the transfer of the permit, the original permittee shall remain fully liable under the terms of the permit and under the requirements of the Rhode Island Hazardous Waste Regulations until the Director has transferred the operating permit to the new owner or operator.”
- 60. Change title of 40 C.F.R. § 270.41 to “Modification or revocation and reissuance or suspension of permits.”
- 61. In 40 C.F.R. § 270.41(a)(2) add as a new ending sentence “This shall include any information indicating the cumulative effects on the environment are unacceptable.”

62. Delete 40 C.F.R. § 270.41(b)(3).
63. Add 40 C.F.R. § 270.41(d): "Causes for suspension. The following is cause to suspend a permit: Cause exists for termination under 40 C.F.R. § 270.43 and the Director determines that suspension is appropriate.
64. Revise 40 C.F.R. § 270.43(a)(2) to read "The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time, or that there had been a conviction or plea, relative to a crime committed, as set forth in R.I. Gen. Laws § 23-19.1-10(p) and (d-f); or".
65. Add as 40 C.F.R. § 270.43(a)(4): "Refusal to allow reasonable inspections, tests or investigations or to submit reports shall constitute valid grounds for denial or revocation of a permit".
66. Add as 40 C.F.R. § 270.43(a)(5): "the permittee's offering, conferring or agreeing to confer any benefit to induce any other person to violate the provisions of the "Rhode Island Hazardous Waste Management Act", or the provisions of these Rhode Island Hazardous Waste Regulations, or the provisions of any other law, rule or regulation relating to the collection, transportation, treatment, storage, or disposal of solid waste or hazardous waste, per R.I. Gen. Laws § 23-19.1-10(p)(3)(ii)." Add as 40 C.F.R. § 270.43(a)(6): "The permittee's coercion of a customer by violence or economic reprisal or threat to deny a customer the use of the permittee's services, per R.I. Gen. Laws § 23-19.1-10(p)(3)(iii)."
68. Add as 40 C.F.R. § 270.43(a)(7): "The permittee's preventing, without the Director's authorization, any transporter or other permittee from delivering solid waste or hazardous waste to its facility or to another licensed Treatment, storage, or disposal facility, per R.I. Gen. Laws § 23-19.1-10(p)(3)(iv)."
69. Add as 40 C.F.R. § 270.43(c): "Change in location of the facility. A permit shall immediately become void and shall be returned to the Director upon change in facility location."
70. Add as 40 C.F.R. § 270.43(d): "A permit shall immediately become void and shall be returned to the Director upon the sale of the facility or change in ownership of the legal entity operating the facility, unless the change has been approved by the Director under 40 C.F.R. § 270.40."
71. Add as 40 C.F.R. § 270.43(e): "Per R.I. Gen. Laws § 23-19.1-10(k), the permittee may appeal the Director's decision to revoke his permit, subject to the "Administrative Rules of Practice and Procedure for the Administrative Adjudication for Environmental Matters". Such appeal shall be in writing and

shall be filed with the clerk of the AAD within fifteen (15) calendar days of the permittee's receipt of the notice of revocation of the permit. The appeal shall be heard before an AAD hearing officer.

72. Replace 40 C.F.R. § 270.50(a)–(d) with “Permits for hazardous waste facilities shall be issued for a period not to exceed five (5) years from the date of expiration of the expiring permit and may be extended or renewed by the Director for a period not to exceed ten (10) years from the date upon which the original permit was effective. A new permit is required at the end of the ten-year period and a complete application for that permit shall be received prior to 180 days from the expiration date of the present permit.”
73. In 40 C.F.R. § 270.51 “Continuation of expiring permits”, replace the text of 40 C.F.R. § 270.51 with the following: “Relative to expiring permits, a “timely” application is one that is submitted more than 180 days prior to the permit expiration date. If a permittee has submitted a timely and complete renewal application (for the renewal of a five (5) year expiring permit) or a timely and complete new application (required every ten years of operation), then the terms and conditions of the expiring RCRA permit continue in force beyond the expiration date of the existing permit, if required during the permitting process, but only until the effective date of the State’s issuance or denial of the RCRA permit currently applied for. Otherwise, the terms and conditions of the expiring RCRA permit do not continue in force beyond its expiration date and the permit to operate shall be considered to be expired.”
74. Add as 40 C.F.R. § 270.52 “Renewal of permits. This section applies to the renewal of permits at the end of their initial five-year terms, for an additional five years. Permits reissued to existing facilities at the end of prior permits’ full ten-year terms are considered new permits and comply with the requirements for new permits set forth elsewhere in these regulations.
  - a. The Office of Waste Management shall hold a public comment period and hearing, prior to renewal of any permit.
  - b. Within fifteen (15) days following the preparation of a draft renewal permit, the Office of Waste Management shall give notice of the preparation of a draft renewal permit and a public comment period and hearing. Any changes in permit conditions shall be described in the notice. Such notice shall be published in a newspaper of general circulation in the area affected, and shall also be sent by mail directed to the last known address of the following persons (any person otherwise entitled to receive such notice may waive his or her right to receive the notice): the applicant, all persons requesting such notification in writing, all property owners within five hundred feet (500') of the perimeter of the site of the facility, and the city or town where the hazardous waste management facility is located, including

the mayor or town manager and the city or town council president, EPA, federal and state agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the Advisory Council on Historic Preservation and State Historical Preservation Officers. The list of property owners within five hundred feet of the site shall be provided by the applicant to the Office of Waste Management. The notice shall include the beginning and ending dates for the comment period, the address where comments will be received, and the name and telephone number of a person to contact for further information.

- c. No earlier than sixty (60) days nor later than seventy-five (75) days following the public notice of the preparation of a draft renewal permit, a hearing shall be held to receive public comment. Comments from the applicant and/or any interested persons shall be recorded at the public hearing. Written comments, that also shall be considered part of the record, may be submitted at least thirty days prior to the public comment hearing and until thirty (30) days following the close of the public comment hearing that shall constitute the public comment period.
- d. Within ninety (90) days after the close of the public comment period, the Office of Waste Management shall issue or deny the renewal permit. The renewal permit (including any changes in permit conditions) or denial shall be in writing and shall be accompanied by a response to each substantive public comment. In the case of a denial, the Office of Waste Management will cite each statutory or regulatory requirement that the applicant did not satisfy. Renewal permits shall be issued only upon a showing that the applicant meets conditions regarding proof of financial assurance, evidence of adequate liability insurance, and the other conditions as required by these regulations. The renewal permit or the denial shall be sent to the applicant and a copy of the same shall be sent to the municipality where the facility or proposed facility is located or proposed to be located. Notice of the permit decision shall also be sent to each person who submitted written comments or requested notice of the final permit decision, and a copy of the renewal permit or denial shall be sent to such persons, upon request.
- e. If the decision of the Office of Waste Management is to deny the renewal permit, the permittee, as per R.I. Gen. Laws § 23-19.1-10(k), may appeal this decision to the Department's Administrative Adjudication Division (AAD), subject to "Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters". Such appeal shall be in writing and shall be filed with the clerk of AAD within fifteen (15) calendar days of the

permittee's receipt of the notice of denial of the renewal permit. The appeal shall be heard before an AAD hearing officer.

75. Delete 40 C.F.R. § 270.60(a) wording and replace it with "Ocean disposal of hazardous waste is prohibited in Rhode Island and therefore is not eligible for a permit."
76. In 40 C.F.R. § 270.60(b)(1) change "Has a Permit for underground injection" to "Has been issued a permit by the Department's Underground Injection Control Program for a remediation overseen by the Department"
77. Delete 40 C.F.R. §§ 270.63, 270.64, 270.65, 270.66, 270.67, 270 Subpart I, and 270 Subpart J. The reduced requirements referenced by these regulations have not been adopted by Rhode Island.
78. Add to 40 C.F.R. § 270.72(a)(1) after the word "disposal" the phrase "and if the Director approves such application"
79. In 40 C.F.R. § 270.72(a)(4) add after the first sentence (after the word "change.") "The new entity, prior to commencing as owner of operator of the facility, shall also submit to the Director information indicating its technical ability to safely operate the facility, its financial ability to maintain such facility, and any additional information the Director may request. After a review of this information, the Director shall either approve or disapprove the transfer of the permit."
80. Delete 40 C.F.R. § 270.42(l).

C. Incorporation of 40 C.F.R. § 124 Federal Regulations regarding Treatment, Storage and Disposal Facilities - 40 C.F.R. § 124 is incorporated by reference in its entirety except as provided below: These regulations apply to the issuance of new permits, including permits issued to existing facilities at the end of prior permits' full ten-year terms. Procedures for the renewal of permits at the end of their initial five-year terms, for an additional five years, are specified in 40 C.F.R. § 270.52 of these regulations.

1. Delete 40 C.F.R. §§ 124.1, 124.2, 124.4, 124.7, 124.9, 124.13, 124.14, 124.16, 124.18, 124.20, 124.21, and 124 Subparts C – D. These provisions do not apply to RCRA and/or to State programs. Also delete 40 C.F.R. § 124 Subpart G. Rhode Island has not adopted the reduced standardized permit requirements of Subpart G.
2. Delete 40 C.F.R. § 124.3 and replace with the following: "40 C.F.R. § 124.3 Application for a permit
  - a. Application Requirements

- (1) Any person who requires a permit under the RCRA program shall complete, sign, and submit to the Director an application for each permit required under 40 C.F.R. § 270.1. Applications are not required for POTW RCRA permits by rule (40 C.F.R. § 270.60).
  - (2) The Director shall not begin the processing of a permit until the applicant has fully complied with the application requirements. See 40 C.F.R. §§ 270.10, 270.13, and 270.14.
  - (3) Permit applications shall comply with the signature and certification requirements of 40 C.F.R. § 270.11.
  - (4) Upon receipt of a permit application for a new facility, the Director shall notify the chief executive officer and the city or town council president of the municipality where the facility is proposed to be located of the receipt of such application.”
  - (5) The Director shall review the application for completeness. Upon completing the review, the Director shall notify the applicant in writing as to whether or not the application is complete. For any application deemed deficient, the Director shall provide a statement of the deficiencies, listing the information needed to make the application complete. After the application is completed, the Director may request additional information needed to clarify, modify, or supplement previously submitted information.
  - (6) If the applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement actions may be taken.
3. Delete 40 C.F.R. § 124.5 and replace with the following: “40 C.F.R. §124.5 Modification, revocation and reissuance, suspension, or termination of permits.
- a. Permits may be modified, revoked and reissued, suspended, or terminated either at the request of any interested person (including the permittee) or upon the Director’s initiative. However, permits may only be modified, revoked and reissued, suspended, or terminated for the reasons specified in 40 C.F.R. § 270.41 (except for 40 C.F.R. §§ 270.41(b)(3)) and 270.43 (as adopted and revised by these Regulations). All requests shall be in writing and shall contain facts or reasons supporting the request.

- b. If the Director decides the request is not justified, he or she shall send the requester a brief written response giving a reason for the decision. Denials of requests for modification, revocation and re-issuance, suspension, or termination are not subject to public notice, public comment, or public hearings. Such denials may be appealed by requesting a hearing with the Department's Administrative Adjudication Division (AAD).
  - c. Modification, Revocation and Re-issuance
    - (1) If the Director tentatively decides to modify or revoke and reissue a permit under 40 C.F.R. § 270.41 (other than under 40 C.F.R. §§ 270.41(b)(3)) or 270.42(c), he or she shall prepare a draft permit under 40 C.F.R. § 124.6 incorporating the proposed changes. The Director may request additional information and, in the case of a modified permit, may require the submission of an updated application. In the case of revoked and reissued permits, the Director shall require the submission of a new application.
    - (2) In a permit modification under this Part, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this Rule, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance preceding the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.
    - (3) Class 1 and 2 modifications as defined in 40 C.F.R. § 270.42 (a) and (b) are not subject to the requirements of this rule.
  - d. If the Director tentatively decides to terminate or suspend a permit under 40 C.F.R. §§ 270.43 or 270.41(d), he or she shall issue a written notice of intent to terminate or suspend. A notice of intent to terminate or suspend is considered a type of draft permit that follows the same procedures as any other draft permit prepared under 40 C.F.R. § 124.6."
4. Delete 124.6 and replace with the following: "40 C.F.R. § 124.6 Draft permits and application denials
- a. Once an application is complete, the Director shall tentatively decide whether to prepare and issue a draft permit or to deny the application. A draft permit shall not be issued nor shall public notice

of a draft permit be issued if the application is incomplete. A permit application may also be denied for causes provided in R.I. Gen. Laws § 23-19.1-10(c) – (j) and (m), unless conditions in R.I. Gen Laws § 23-19.1-10(l) are satisfied.

- b. If the Director tentatively decides to deny the permit application, he or she shall issue to the applicant a notice of intent to deny the application. A notice of intent to deny the application is considered a type of draft permit that follows the same procedures as any other draft permit prepared under 40 C.F.R. § 124.6. If the Director's final decision (40 C.F.R. § 124.15) is that the tentative decision to deny the permit application is correct, that such final decision may be appealed by requesting a hearing with the Department's Administrative Adjudication Division ("AAD") under 40 C.F.R. § 124.19. If the Director's final decision (40 C.F.R. § 124.15) is that the tentative decision to deny the permit application was incorrect, he or she shall withdraw the notice of intent to deny and proceed to prepare a draft permit under § 1.12(C)(4)(c) of this Part.
  - c. If the Director decides to prepare and issue a draft permit, he or she shall prepare and issue to the applicant a draft permit that contains the following information:
    - (1) All conditions under 40 C.F.R. §§ 270.30 and 270.32.
    - (2) All compliance schedules under 40 C.F.R. § 270.33.
    - (3) All monitoring requirements under 40 C.F.R. § 270.31; and
    - (4) Standards for treatment, storage, and/or disposal facilities and other preconditions under 40 C.F.R. § 270.30.
  - d. All draft permits shall be accompanied by a fact sheet required under 40 C.F.R. § 124.8 and shall be publicly noticed (40 C.F.R. § 124.10) and made available for public comment (40 C.F.R. § 124.11). The Director shall give notice of a public informational workshop (40 C.F.R. § 124.8) and public comment hearing (40 C.F.R. § 124.12), issue a final decision (40 C.F.R. § 124.15) and respond to public comments (40 C.F.R. § 124.17). An appeal may be taken under 40 C.F.R. § 124.19."
5. Delete 40 C.F.R. § 124.8 and replace with: "40 C.F.R. § 124.8 Informational workshop and fact sheet.
- a. Within fifteen (15) days after the date of the public notice of issuing the draft permit, the Office of Waste Management shall hold an informational workshop. The purpose of the informational workshop

shall be to discuss the type of facility or activity that is the subject of the draft permit or the intent to deny the application; the type and quantity of wastes that are proposed to be managed, processed and/or disposed; a brief summary for the basis for the draft permit or the intent to deny the application; proposed permit conditions, including references to applicable statutory or regulatory provisions; reasons why any requested variances or alternatives to required standards do or do not appear justified; a description of the procedures for reaching a final decision on the draft permit or the intent to deny the application, that shall include the beginning and ending dates for the comment period hereafter, the address where comments will be received, the nature of the public comment hearing, and any other procedures by which the public may participate in the final decision; and the name and telephone number of a person to contact for further information.

- b. A fact sheet containing the information in 40 C.F.R. § 124.8(a) shall be provided to the applicant and to any other requesting person.”
6. Delete 40 C.F.R. § 124.10 and replace with: “40 C.F.R. § 124.10 Public notice of permit actions, informational workshop, public hearing, and public comment period.
- a. Scope:
    - (1) The Director shall give public notice that the following actions have occurred:
      - (AA) A permit application has been tentatively denied under 40 C.F.R. § 124.6(b);
      - (BB) A draft permit has been prepared and issued under 40 C.F.R. § 124.6(c);
      - (CC) An informational workshop and public comment hearing under 40 C.F.R. §§ 124.8 and 124.12 respectively have been scheduled.
  - b. Timing:
    - (1) Public notice of the preparation and issuance of a draft permit or its tentative denial shall allow at least sixty (60) days for public comment; at least thirty (30) days prior to the public comment hearing and thirty (30) days following the close of the public comment hearing, that shall constitute the public comment period.

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

c. Methods:

- (1) Public notice of activities described in paragraph § 1.9(A)(7)(a)((1)) of this Part shall be given by the following methods:
  - (AA) By mailing a copy of the written notice to the last known address of the following persons (any person otherwise entitled to receive a notice under this paragraph may waive his or her rights to receive this notice) - The applicant; EPA; Federal and State agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the Advisory Council on Historic Preservation and State Historical Preservation Officers; Persons on a mailing list developed by including those who request to be on the list, soliciting persons for "area lists" from participants in past permit proceedings in that area and notifying the public of the opportunity to be put on the mailing list through periodic publication in a newspaper of general circulation and via other means that the Department decides to employ; All property owners within five hundred (500) feet of the perimeter of the facility's site. This list of owners shall be provided by the applicant to the Office of Waste Management; The city or town where the facility is located, including the mayor or town manager and the town or city council president.
  - (BB) By publication of a legal notice in a daily or weekly newspaper of general circulation in the area affected and by broadcast over local radio stations.

d. Contents:

- (1) All public notices shall contain the following minimum information:

- (AA) Name and address of the Office processing the permit action for which public notice is being given;
- (BB) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;
- (CC) A brief description of the operations conducted at the facility or activity described in the permit application or draft permit;
- (DD) Name, address and telephone number of a Department person from whom interested persons may obtain further information, relative to the draft permit or notice of intent to deny the application, the fact sheet, and the permit application;
- (EE) A brief description of the comment procedures required by 40 C.F.R. §§ 124.11 and 124.12, the date, time and place of the informational workshop and public comment hearing, and other procedures by which the public may participate in the final permit decision;
- (FF) Reference to the date(s) of any previous public notice(s) relating to the permit;
- (GG) A brief description of the nature and purpose of the informational workshop and public comment hearing, including the applicable rules and procedures.

e. In addition to the public notice described in paragraph § 1.10(A)(6)(d) of this Part, the Department shall make available to the public the fact sheet required by 40 C.F.R. § 124.8, the permit application, and the draft permit or notice of intent to deny the application and shall notify the persons listed in paragraph § 1.9(A)(6)(c)((1)) that this information is available to them.”

7. Delete 40 C.F.R. § 124.11 and replace with the following:

- a. “40 C.F.R. § 124.11 Public comments.
- b. During the public comment period provided under 40 C.F.R. § 124.10, any interested person may submit written comments on the draft permit. All written comments shall be considered and made part of the record of public comment, along with a transcript of oral comments made at the public hearing. All comments shall be

considered in making the final decision and shall be answered as provided in 40 C.F.R. § 124.17.”

8. Delete 40 C.F.R. § 124.12 and replace with the following: “40 C.F.R. § 124.12 Public hearings.
  - a. The Director shall hold a public comment hearing for each draft permit prepared. Public notice of the hearing shall be given as specified in 40 C.F.R. § 124.10.
  - b. Any person may submit oral or written statements and data concerning the draft permit.
  - c. Comments from the applicant and/or any other interested person shall be recorded at the hearing. A tape recording or written transcript of the hearing shall be made available to the public.”
9. Delete 40 C.F.R. § 124.15 and replace with the following: “40 C.F.R. § 124.15 Issuance or denial of permit or acceptance or denial of application Within ninety (90) days after the close of the public comment period, the Director shall issue or deny the permit or accept or deny the application, as appropriate. The permit or denial of the permit or acceptance or denial of the application, as appropriate, shall be in writing and shall be accompanied by a response to each substantive public comment. In the case of a denial, the Director will cite each statutory or regulatory requirement that the applicant did not satisfy. Permits shall be issued only with conditions including proof of financial responsibility (to include, per 40 C.F.R. § 264 Subpart H, financial assurance for closure (and post-closure, if applicable) and liability coverage) and such other conditions as required by these regulations. The permit or its denial, or the acceptance or denial of the application, as appropriate, shall be sent to the applicant and a copy of the same shall be sent to the municipality where the facility or proposed facility is located or proposed to be located. Notice of the permit or application decision shall also be sent to each person who submitted written comments or requested notice of the final permit decision, and a copy of the permit shall be sent to such persons upon request.”
10. Delete 40 C.F.R. § 124.17 and replace with the following: “40 C.F.R. § 124.17 Response to public comments.
  - a. At the time that any final permit decision is issued under 40 C.F.R. § 124.15, the Director shall issue a response to public comments. The response shall:

- (1) Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change(s); and
    - (2) Briefly describe and respond to all significant public comments raised during the public comment period or during the hearing.
  - b. The response to public comments shall be made available to the public.”
11. Delete 40 C.F.R. § 124.19 and replace with:
- a. “40 C.F.R. § 124.19 Appeal of permit and application decisions
  - b. Any interested person, as per R.I. Gen Laws § 23-19.1-10(b)(5), may appeal the decision of the Office of Waste Management to the Department’s Administrative Adjudication Division (“AAD”), subject to “Administrative Rules of Practice and Procedure for the Administrative Adjudication Division for Environmental Matters” and subject to conditions in R.I. Gen. Laws §§ 23-19.1-10(b)(6) and (b)(7). All appeals shall be in writing and shall be filed with the clerk of the AAD within thirty (30) calendar days of receipt of notice of the contested permitting action, except that any permittee who receives a notice of intent to revoke a permit or deny a renewal permit shall have fifteen (15) days from the receipt of this notice to submit a written appeal to the clerk of the AAD, per R.I. Gen. Laws § 23-19.1-10(k). All appeals shall be heard before AAD hearing officers.”
12. Delete 40 C.F.R. § 124.31 and replace with the following: “40 C.F.R. § 124.31 Pre-application public meeting and notice.
- a. Applicability: The requirements of this rule shall apply to all applicants seeking initial permits for hazardous waste management facilities, and shall also apply to those applicants seeking a new permit (i.e., every ten years). The requirements of this rule shall also apply to applicants seeking renewal of permits for such facilities, i.e., after five years of operation with an existing permit, only if the renewal application is proposing a significant change in facility operations. For the purposes of this rule, a “significant change” is any change that would qualify as a class 3 permit modification under 40 C.F.R. § 270.42. The requirements of this rule do not apply to permit modifications under 40 C.F.R. § 270.42 (public notice requirements for those modifications are detailed in 40 C.F.R. § 270.42) or to applications that are submitted for the sole purpose of conducting post closure activities or post-closure activities and corrective action at a facility.

- b. Prior to the submission of a permit application for a hazardous waste management facility, the applicant shall hold at least one meeting with the public in order to solicit questions from the community and inform the community of proposed hazardous waste management activities. The applicant shall post a sign-in sheet or otherwise provide a voluntary opportunity for attendees to provide their names and addresses.
- c. The applicant shall submit a summary of the meeting, along with the list of attendees and their addresses developed under paragraph § 1.9(A)(12)(b) of this Part, and copies of any written comments or materials submitted at the meeting, to the Department
- d. The applicant shall provide public notice of the pre-application meeting at least 30 days prior to the meeting. The applicant shall maintain, and provide to the permitting agency upon request, documentation of the notice.
  - (1) The applicant shall provide public notice in all of the following forms: A newspaper advertisement. The applicant shall publish a notice, fulfilling the requirements in paragraph § 1.9(A)(12)(d)((2)) of this Part, in a newspaper of general circulation in the county or equivalent jurisdiction that hosts the proposed location of the facility. In addition, the Director shall instruct the applicant to publish the notice in newspapers of general circulation in adjacent counties or equivalent jurisdictions, where the Director determines that such publication is necessary to inform the affected public. The notice shall be published as a display advertisement; A visible and accessible sign. The applicant shall post a notice on a clearly marked sign at or near the facility, fulfilling the requirements in paragraph § 1.9(A)(12)(d)((2)) of this Part. If the applicant places the sign on the facility property, then the sign shall be large enough to be readable from the nearest point where the public would pass by the site; A broadcast media announcement. The applicant shall broadcast a notice, fulfilling the requirements in paragraph § 1.9(A)(12)(d)((2)) of this Part, at least once on at least one local radio station or television station. The applicant may employ another medium with prior approval of the Director; A notice to the permitting agency. The applicant shall send a copy of the newspaper notice to the Department and to the appropriate local government unit, in accordance with 40 C.F.R. § 124.10(c)(1)(vi).

- (2) The notices required under paragraph § 1.9(A)(12)(d)((1)) of this Part shall include: The date, time, and location of the meeting; A brief description of the purpose of the meeting; A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location; A statement encouraging people to contact the facility at least 72 hours before the meeting if they need special access to participate in the meeting; and The name, address, and telephone number of a contact person for the applicant.”

13. Delete 40 C.F.R. § 124.32 and replace with the following: “40 C.F.R. § 124.32 Public notice requirements at the application stage.

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

list; The location where copies of the permit application and any supporting documents can be viewed and copied; A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location on the front page of the notice; and The date that the application was submitted.

- c. Concurrent with the notice required under 40 C.F.R. § 124.32(b) of this subpart, the Director shall place the permit application and any supporting documents in a location accessible to the public in the vicinity of the facility or at the Department's office. "
14. Delete 40 C.F.R. § 124.33 and replace with the following: "40 C.F.R. § 124.33 Information repository.
- a. Applicability. The requirements of this rule apply to all applications seeking initial permits, renewal permits (i.e., after five years of operation under an existing permit), and new permits (every ten years) for hazardous waste management facilities.
  - b. The Director may assess the need, on a case-by-case basis, for an information repository. When assessing the need for an information repository, the Director shall consider a variety of factors, including: the level of public interest; the type of facility; the presence of an existing repository; and the proximity to the nearest copy of the administrative record. If the Director determines, at any time after submittal of a permit application, that there is a need for a repository, then the Director shall notify the facility that it shall establish and maintain an information repository. (See 40 C.F.R. § 270.30(m) for similar provisions relating to the information repository during the life of a permit).
  - c. The information repository shall contain all documents, reports, data, and information deemed necessary by the Director to fulfill the purposes for which the repository is established. The Director shall have the discretion to limit the contents of the repository.
  - d. The information repository shall be located and maintained at a site chosen by the facility. If the Director finds the site unsuitable for the purposes and persons for which it was established, due to problems with the location, hours of availability, access, or other relevant considerations, then the Director shall specify a more appropriate site.
  - e. The Director shall specify requirements for informing the public about the information repository. At a minimum, the Director shall require

the facility to provide a written notice about the information repository to all individuals on the facility mailing list.

- f. The facility owner/operator shall be responsible for maintaining and updating the repository with appropriate information throughout a time period specified by the Director. The Director may close the repository at his or her discretion, based on the factors in paragraph § 1.9(A)(14)(b) of this Part.

## **1.10 Operational Requirements for Treatment, Storage and Disposal Facilities**

### **1.10.1 Applicability:**

This rule shall apply to Treatment, Storage and Disposal Facilities. This rule does not apply to facilities that operate in accordance with § 1.11 of this Part as Temporary Transfer and Storage Facilities.

### **1.10.2 Incorporation of Federal Regulations regarding Treatment, Storage and Disposal Facilities**

- A. 40 C.F.R. § 264 is incorporated by reference in its entirety except as provided below, and except as provided in § 1.17 of this Part and except as otherwise noted in this Part:
  1. Delete 40 C.F.R. §§ 264.1(c), 264.1(d), 264.1(g)(1), 264.1(g)(4), and 264.1(g)(12). These exemptions do not apply in Rhode Island.
  2. Delete existing language in 40 C.F.R. § 264.1(g)(3) and replace with “A generator accumulating hazardous waste on-site in accordance with § 1.7 of this Part.
  3. Delete 40 C.F.R. § 264.1(f), since the State of Rhode Island rather than the EPA is directly operating the RCRA program in Rhode Island. However, the Part 264 requirements do apply in Rhode Island because they have been incorporated by reference by these Rules and Regulations, with exceptions as noted.
  4. Add as 40 C.F.R. §§ 264.1(g)(5)(i), 264.1(g)(6)(i), and 264.1(g)(10)(i) “Operations shall be carried out in a system where equipment has been designed, engineered, and constructed so as to protect human health and the environment, and so as to comply with all requirements within OSHA standards.”
  5. Delete existing language in 40 C.F.R. § 264.1(g)(6), and replace with the following: “The owner or operator of an elementary neutralization unit as

defined in 40 C.F.R. § 260.10. Also, the owner and operator of a wastewater treatment unit provided that all of the following conditions are met:

- a. The unit receives and treats or stores an influent wastewater that is a hazardous waste or generates and accumulates a wastewater treatment sludge that is a hazardous waste as defined in these Rhode Island Hazardous Waste Regulations or treats or stores a wastewater treatment sludge that is a hazardous waste, and
- b. The unit is being used to legitimately treat only wastewater, as defined at 47 Fed. Reg. 4706 (Feb. 2, 1982). (Note: concentrated hazardous wastes are not covered by this exemption. The disposal of concentrated hazardous waste down the drain is prohibited), and
- c. The unit is a tank or tank system as defined in 40 C.F.R. § 260.10 (e.g., wastewaters when stored or transported in containers are not covered by the exemption), and
- d. The unit has a current ongoing discharge to surface waters or the sewers that is on-site and is subject to regulation under §§ 402 or 307(b) of the Federal Clean Water Act and R.I. Gen. Laws § 46-12-5 (e.g., zero discharge units such as evaporators are not covered by this exemption, but rather shall comply with the RCRA requirements for generators or Treatment, Storage and Disposal Facilities, as applicable, in addition to any requirements specified in any permit issued by a water program by the Department's Office of Water Resources or a publicly owned treatment facility), and
- e. The unit has been specifically described in a water permit application (e.g., in a schematic diagram) and specifically referenced in a water permit as being part of the facilities subject to regulation under the Federal Clean Water Act and R.I. Gen. Laws § 46-12-5 (e.g., tanks used to store hazardous wastewaters or sludges not covered by a water permit application and permit are not covered by this exemption). Provided that if the owner or operator of either an elementary neutralization unit or a wastewater treatment unit is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined 40 C.F.R. § 268.40, Table Treatment Standards for Hazardous Wastes), or reactive (D003) waste, to remove the characteristic before land disposal, the owner/operator shall comply with the requirements set out in 40 C.F.R § 264.17(b). Provided also that any sludge or other waste materials generated from an elementary neutralization unit or a wastewater treatment unit shall be managed as a hazardous waste if such sludge or waste material meets the criteria of a hazardous waste. The full hazardous waste regulations apply to such sludge or other waste material when

it leaves the elementary neutralization unit or wastewater treatment unit, e.g., when a sludge is stored in containers on-site. For zero discharge units, the hazardous waste requirements apply both to any hazardous wastewaters and to hazardous sludges, when either is generated.”

6. In 40 C.F.R. § 264.1(g)(9) replace “ten days” with “seventy-two hours”. Also, add to the end of this provision: “Temporary Transfer and Storage Facilities shall meet the requirements specified in § 1.11 of this Part.”
7. In 40 C.F.R. § 264.1(g)(11)(iii) delete “and”.
8. Add 40 C.F.R. § 264.1(g)(11)(v) “Used electronics as described in § 1.14.2 of this Part.”
9. Add 40 C.F.R. § 264.1(g)(11)(vi) “Silver-containing photo fixing solutions as described in § 1.15.3 of this Part.”
10. In 40 C.F.R. § 264.1(j)(7) replace “264.18(b)” with “264.18(b), except for 264.18(b)(1)(ii), including (A) – (D)”.
11. Add to 40 C.F.R. § 264.10 the sub-paragraph “(c) Owners and operators of facilities that each initiate a hazardous waste shipment shall also comply with waste shipment requirements of § 1.7.1 through 1.7.13 of this Part.”
12. Add to 40 C.F.R. § 264.10 the sub-paragraph “(d) In addition to these General Facility Standards, the permittee shall also have a general duty to at all times properly operate and maintain the facility. This includes adequate staffing, training, laboratory and process controls and adequate back-up systems where necessary.”
13. In 40 C.F.R. § 264.12(a)(1) after “Regional Administrator” add: “and the Director”; also in the last sentence of paragraph (a)(1) [in 40 C.F.R. § 264.2\(a\)\(1\)](#) after “source” add “to the Regional Administrator” and after “not required” add: “but is required to be sent to the Director at least four weeks in advance of the expected arrival date at the facility”
14. In 40 C.F.R. § 264.13(b)(6) delete “264.1034(d), 264.1063(d), 264.1083,”. Rhode Island is not authorized to administer the referenced regulations under 40 C.F.R. § 264, subparts AA, BB and CC (RCRA air emissions regulations). Rather, the EPA directly administers the subparts AA, BB and CC regulations in Rhode Island. Delete 40 C.F.R. § 264.13(b)(8).
15. In 40 C.F.R. § 264.15(b)(4), in the second sentence delete the words “, except for Performance Track member facilities, that must inspect at least once each month, upon approval by the Director, as described in paragraph (b)(5) of this section”. Also in 40 C.F.R. § 264.15(b)(4), replace “264.278”

with “264.273” and delete “264.1033, 264.1052, 264.1053, 264.1058, and 264.1083 through 264.1089”.

16. Delete 40 C.F.R. § 264.15(b)(5).
17. Delete 40 C.F.R. § 264.18(a).
18. Delete 40 C.F.R. § 264.18(b)(1)(ii) including its paragraphs (A) – (D) and in 40 C.F.R. § 264.18(b)(1)(i) replace “,or” with a “.”, and in § 264.18(b)(1) replace “A facility located in a 100-year floodplain” with “Only facilities that perform storage and/or treatment (not disposal) may be located in 100 year floodplains and such facilities”.
19. In 40 C.F.R. § 264.56(g) add, after the word “chapter”, “and in accordance with §§ 1.8 and 1.9 of this Part”.
20. In 40 C.F.R. § 264.70(a) replace “§ 264.1 provides otherwise” with “those portions of § 264.1 adopted by the Department provide otherwise”.
21. In 40 C.F.R. § 264.71 add an introductory paragraph immediately prior to paragraph (a); “Except for facilities exempted by § 264.70 and except for facilities subject to § 264.71(b) [receiving waste that must at least be accompanied by a shipping paper in lieu of a manifest], the facility owner or operator shall not accept any hazardous waste without a completed Manifest. All waste required to be manifested shall employ use of the federal manifest forms. These manifest requirements also pertain to manifests received by the facility from the generator after the shipment has been received and accepted [based on a shipping paper] as described in § 264.71(b). Additionally, the facility owner or operator shall submit to the Department the names and signatures of all agents of the owner or operator authorized to sign the manifest.
22. In 40 C.F.R. § 264.71(a) add a sub-paragraph; “(2)(vi) Send a copy of the signed manifest to the Department and to the state where the waste was generated (if required by that state), within five days of receipt of the waste at the facility (or sooner if required by another state). All facilities, whether they mail copies of individual manifests or submit individual manifest information electronically, shall also submit to the Department a quarterly report for all manifests received in that quarter in an electronic format acceptable to the Department. This submission shall include a written signed statement attesting to the accuracy and completeness of the information. This quarterly report shall include the following data for each manifest:
  - a. Manifest number
  - b. Generator EPA ID Number

- c. Generator Name
- d. Transporter(s) EPA ID Number
- e. Transporter(s) Name
- f. Waste Codes
- g. Waste Description
- h. Waste Quantity
- i. Date of Generation

23. In 40 C.F.R. § 264.71(b) add a sub-paragraph; “(6) Send a copy of the signed manifest to the Department and to the state where the waste was generated (if required by that state), within five days of receipt of the waste at the facility (or sooner if required by another state). However, if the facility did not receive a manifest within five (5) days of receipt of the waste at the facility (or within any shorter period required for submission by another state), then send a copy of the signed and dated shipping paper to the Department and to the state where the waste was generated (if required by that state) within five days of receipt of the waste at the facility (or sooner if required by another state). In addition, upon later receiving the manifest, send a copy of the signed manifest to the Department and to the state where the waste was generated (if required by that state), within five (5) days of receipt of the manifest (or sooner if required by another state). With respect to sending a copy of the manifest and/or shipping paper to the Department, the owner or operator may alternatively satisfy this requirement by submitting the information on the manifest and/or shipping paper electronically to the Department in a format acceptable to the Department and in a time frame greater than five (5) days but not less than quarterly. All facilities, whether they mail copies of individual manifests and/or shipping papers or submit individual manifest information electronically, shall also submit to the Department a quarterly report for all manifests and/or shipping papers received in that quarter in an electronic format acceptable to the Department. This submission shall include a written signed statement attesting to the accuracy and completeness of the information. This quarterly report shall include the following data for each manifest:

- a. Manifest number
- b. Generator EPA ID Number
- c. Generator Name
- d. Transporter(s) EPA ID Number

- e. Transporter(s) Name
  - f. Waste Codes
  - g. Waste Description
  - h. Waste Quantity
  - i. Date of Generation
24. In 40 C.F.R. § 264.71(c) replace the words “the requirements of part 262 of this chapter” with the words “the portions of 40 C.F.R. § 262 that are incorporated by reference and § 1.7 of this Part”
  25. In 40 C.F.R. § 264.73(b) add a sub-paragraph; “(20) For storage facilities, a description and the quantity of each waste shipped, cross-referenced by manifest document number”.
  26. In 40 C.F.R. § 264.73((b)(3) delete “264.1034, 264.1063, 264.1083,”
  27. In 40 C.F.R. § 264.73(b)(6) delete “264.1034(c)-264.1034(f), 264.1035, 264.1063(d)264.1063(i), 264.1064, and 264.1082 through 264.1090”.
  28. In 40 C.F.R. § 264.74(b) add after the word “period” “(of at least three years)”.
  29. Delete 40 C.F.R. § 264.77(c) and replace with “(c) As otherwise required by subparts F and K through N of this part.”
  30. In 40 C.F.R. §264.90(b) replace “§ 264.1” with “those portions of § 264.1 adopted by the Department” and delete sub-paragraphs (2), and (5) (since these exemptions do not apply in Rhode Island).
  31. In 40 C.F.R. § 264.90(a)(2) add at the end of this paragraph, “A facility that is not a regulated unit shall comply with its approved groundwater monitoring plan, unless the Department does not require the facility to do groundwater monitoring.”
  32. In 40 C.F.R. § 264.114, after the word “chapter”, add “and in accordance with § 1.8 of this Part”.
  33. In 40 C.F.R. § 264.143(a) delete sub-paragraphs (3) through (5) and replace with “(3) For new facilities, the full amount of the closure cost estimate shall be deposited into the closure trust fund when the fund is established. For existing facilities, the full amount of the closure cost estimate shall be deposited into the closure trust fund by July 18, 1985.” In sub-paragraph (6), delete “After the pay-in period is completed”.

34. In 40 C.F.R. § 264.145(a) delete sub-paragraphs (3) through (5) and replace with “(3) For new facilities, the full amount of the post closure cost estimate shall be deposited into the post closure trust fund when the fund is established. For existing facilities, the full amount of the post closure cost estimate shall be deposited into the post closure trust fund by July 18, 1985.” In sub-paragraph (6) delete “After the pay-in period is completed,”
35. In 40 C.F.R. §§ 264.143(h) and 264.145(h) where the sentence "If the facilities covered by the mechanism are in more than one Region, identical evidence of financial assurance shall be submitted to and maintained with the Regional Administrator of all such Regions." appears, replace it with the sentence "If the facilities covered by the mechanism are in more than one State, identical evidence of financial assurance shall be submitted to and maintained with the State Agency regulating hazardous waste or with the appropriate Regional Administrator if the facility is located in an unauthorized State."
36. In 40 C.F.R. § 264.151 make the following substitutions, consistent with the substitution rules stated in the definitions of Administrator/Regional Administrator, EPA and RCRA in § 1.5 of this Part:

37. Table 2: C.F.R. word substitution

Where the 40 C.F.R. § 264.151 wording says:	Substitute:
United States Environmental Protection Agency	Rhode Island Department of Environmental Management
EPA <sup>1</sup>	DEM
United States Government <sup>2</sup>	State of Rhode Island
EPA Regional Administrator or Regional Administrator <sup>3</sup>	Director
Region(s) where the facility(ies) is (are) located	(delete)
Appropriate (when used with Regional Administrator)	(delete)

Resource Conservation and Recovery Act	Hazardous Waste Management Act of 1978
RCRA	HWMA

- a. Except when used in "EPA identification number" and when used in "EPA and/or a state".
  - b. Except when referring to securities issued by the U. S. Government.
  - c. Except wherever 40 C.F.R. § 264.151 requires that owners and operators notify several Regional Administrators of their financial obligations, the owner or operator shall notify both the Director and all Regional Administrators of Regions that are affected by the owner or operator's financial assurance mechanisms.
38. In 40 C.F.R. § 264.173 add a sub-paragraph "(c) The side of all hazardous waste containers of 119 gallons or less shall be labeled with the following information:
- a. The words "hazardous waste";
  - b. The EPA or RI waste code;
  - c. The generator's name and address; and
  - d. A unique ID number (that has the ability to link to the manifest number).
39. Revise 40 C.F.R. § 264.174 to read "At least weekly, the owner or operator shall inspect areas where containers are stored. The owner or operator shall look for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors. "
40. In 40 C.F.R. §§ 264.175, 264.178, 264.193, and 264.351, after the word "chapter", add "and in accordance with §§ 1.7 and 1.8 of this Part."
41. In 40 C.F.R. §§ 264.191(a) and 264.191(c), compliance in Rhode Island relative to the January 12, 1988 and July 14, 1986 dates, respectively, applies only to a tank system owned or operated by a federal small quantity generator or any tank system (aboveground, onground, inground, or underground) that cannot be entered for inspection. Relative to a tank system that is not owned or operated by a federal small quantity generator and that is a tank system (aboveground, onground, inground, or underground) that can be entered for inspection, "January 12, 1988" and

"July 14, 1986" shall be replaced with "December 1, 1992", wherever those dates occur in 40 C.F.R. §§ 264.191(a), and 264.191(c), respectively.

42. Delete 40 C.F.R. § 264.195(e)
43. Add as the introduction to 40 C.F.R. § 264.301, [prior to paragraph (a)] the sentence "Landfills shall be designated as Class I, Class II, or Class III."
44. Add at the end of 40 C.F.R. § 264.301(c)(1)(i)(B) the statement "The bottom liner shall be installed with a minimum two percent slope and lead to collection sumps at all low points".
45. Delete 40 C.F.R. § 264.301(l) requirements for Alabama landfills and replace with "(l) There shall be a minimum distance of 500 feet between any active portion of the facility and any surface body of water and any wetland."
46. Add as 40 C.F.R. § 264.301(m) "The boundaries of all active portions of the landfill shall be at least 500 feet from any private water supply or livestock water supply."
47. Add as 40 C.F.R. § 264.301(n) "Landfill erosion, landslides, and slumping shall be minimized."
48. Add as 40 C.F.R. § 264.301(o) "The landfill shall contain a gas collection and venting system to prevent the lateral movement of gases generated within the landfill and to prevent the accumulation of these gases within confined structures on or adjacent to the landfill area."
49. Add as 40 C.F.R. § 264.301(p): "Class I Landfills shall be located only in "Till" areas as identified on the Ground Water Maps prepared by the United States Geological Survey and shall include in the design the following:
  - a. A two-liner system installed on the bottom and all sides of any disposal area consisting of two membrane liners.
  - b. A leachate monitoring, collection and removal system installed above the top liner that consists of soils at least three feet thick and that allows leachate to move rapidly through the soils and collect in sumps.
  - c. A minimum of six inches of sand immediately overlaying and under the membrane liner.
  - d. Membrane liners that meet the following requirements:
    - (1) Be of adequate strength and thickness to ensure mechanical integrity and have a minimum thickness of 30 mils.

- (2) Be resistant to attack from soil bacteria and fungi.
- (3) Has ample weather resistance to withstand the stress of extreme heat, freezing and thawing.
- (4) Has adequate tensile strength to elongate sufficiently and withstand the stress of installation and/or use of machinery and equipment.
- (5) Be of uniform thickness, free from thin spots, cracks, tears, blisters and foreign particles.
- (6) Be placed on a stable base.
- (7) Has a permeability less than or equal to  $1 \times 10^{-12}$  cm/sec or its equivalent.
- (8) Be seamed in a manner that does not adversely affect any property of the membrane.”

50. Add as 40 C.F.R. § 264.301(q) “Class II Landfills may be located in either "Till" areas or "Outwash" areas as identified on the Ground Water Maps prepared by the United States Geological Survey and shall be of the same design as Class I Landfills.”
51. Add as 40 C.F.R. § 264.301(r) “Class III Landfills may be located in either "Till" areas or "Outwash" areas as identified on the Ground Water Maps prepared by the United States Geological Survey. Class III Landfills located in "Outwash" areas and Class III Landfills located in "Till" areas shall meet the requirements of 40 C.F.R. § 264.301(a) through (o) and 40 C.F.R. § 264 Subpart F.”
52. Add as 40 C.F.R. § 264.301(s) “The Director may approve a design that affords protection equivalent to any of the requirements for classes of landfills in 40 C.F.R. § 264.301(p) – (r), provided that all minimum federal requirements are retained. Prior to approving an equivalent design, the Director shall prepare a written opinion that shall compare and evaluate the proposed equivalent design with the requirements of the appropriate class and shall state his reasons for approving the proposed equivalent design. This written report shall be made available to the public prior to the public hearing required by 40 C.F.R. § 270.10(c) and 40 C.F.R. § 124.10(b).”
53. Add in 40 C.F.R. § 264.301(t) “Class I Landfills shall not accept any waste that:
  - a. Is an R006 waste (extremely hazardous waste) or

- b. Has a 40 C.F.R. § 261.33(a)(2) OR 40 C.F.R. § 261.33(a)(4) characteristic of reactivity or
  - c. Is a forbidden explosive as defined in 49 C.F.R. § 173.54 or
  - d. Is a Division 1.1, Division 1.2 or Division 1.3 explosive as defined in 49 C.F.R. § 173.53 or 49 C.F.R. § 173.50, respectively, or
  - e. Is a liquid or gaseous material that is a liquid while under pressure having a flash point below 73°F and a boiling point less than 100°F
  - f. Is an ignitable compressed gas as described in 40 C.F.R. § 261.21(a)(3), or
  - g. Is a non-liquid having a 40 C.F.R. § 261.21(a)(2) characteristic of ignitability, or
  - h. Is an oxidizer as described in 40 C.F.R. § 261.21(a)(4).
54. Add in 40 C.F.R. § 264.301(u) "Class II and III Landfills shall not accept any waste that:
- a. Is a prohibited waste in Class I landfills as described above, or
  - b. Has a 40 C.F.R. § 261.23(a)(3) characteristic of reactivity or
  - c. Has a 40 C.F.R. § 261.23(a)(6) characteristic of reactivity, or
  - d. May form potentially explosive mixtures with oxidizable materials or
  - e. Has a 40 C.F.R. § 261.23(a)(5) characteristic of reactivity, or
  - f. Is a liquid having a flashpoint less than 73°F and a boiling point at or above 100°F, or
  - g. Is a liquid having a flashpoint at or above 73°F and a boiling point less than 100°F, or
  - h. Is a liquid that ignites spontaneously in dry or moist air at or below 130°F pt
  - i. Is a compressed gas or mixture or liquid flammable material having a properties as described in 40 C.F.R. § 261.21(a)(3)(i).
55. In 40 C.F.R. § 264.313 delete " , unless 40 C.F.R. § 264.17(b) is complied with"

56. Delete 40 C.F.R. § 264 Subparts AA, BB, and CC. Also delete 40 C.F.R. §§ 264.179, 264.200, and 264.232, in 264.340(b)(2) delete “, BB and CC,.” and in 40 C.F.R. § 264.601 delete “and subparts AA through CC.” Rhode Island is not authorized to administer the referenced regulations under 40 C.F.R. § 264, subparts AA, BB and CC (RCRA air emissions regulations). Rather, the EPA directly administers the subparts AA, BB and CC regulations in Rhode Island.
57. Delete 40 C.F.R. §§ 264.149 and 264.150 (not applicable in authorized States).
58. Delete 40 C.F.R. § 264 Appendix VI (not applicable in Rhode Island due to absence of such earthquake fault lines).
59. Delete 40 C.F.R. § 264.340(b)(1). Also in 40 C.F.R. § 264.601 delete “part 63 subpart EEE and part 146.” These exemptions do not apply in Rhode Island.
60. Revise 40 C.F.R. § 264.1101(c)(4) to read “Inspect and record in the facility’s operating record, at least once every seven days.

## **1.11 Requirements for Temporary Transfer and Storage Facilities**

- A. **Applicability:** This Part applies to facilities that temporarily transfer and store hazardous waste at locations for up to and not exceeding seventy-two (72) hours, excluding Sundays and federal and Rhode Island legal holidays, at locations included on the application. This Part does not apply to waste that is received from off-site by a utility that is exempt under § 1.8.2(A)(9) of this Part.
- B. **Authorization Requirements:** All persons who shall construct, operate or own a temporary transfer and storage facility shall first submit a complete application to the Office of Waste Management and obtain a Letter of Authorization from the Director prior to conducting any such activities on-site.
- C. **Closure Plan and Financial Requirements:** Owners or operators of a temporary transfer and storage facility shall develop a closure plan, complete with a cost estimate for closing down their facility, and submit this plan along with an Application for Authorization as defined below, Owners or operators shall document their financial ability to complete the closure plan by providing financial assurance equivalent to the cost estimate contained within the closure plan. If the owner or operator fails to satisfy these requirements the Director may deny their Application for Authorization.
- D. **Application Specifications:** All applications for authorization shall contain at least the following information:

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

2. A Letter of Authorization is not transferable to any other property.
  3. Any change in ownership shall require written authorization of the Department prior to the change. The Director may require resubmission of all or part of the application in connection with the transfer.
- J. Revocation: The Director may revoke or suspend a Letter of Authorization in the event that a determination is made by the Director that the facility is not being operated in a manner that is consistent with these Regulations or the Letter of Authorization.
- K. Generator Requirements: Temporary transfer and storage facilities shall comply with applicable sections of hazardous waste generator requirements contained in § 1.7 of this Part including standards for Large Quantity Generators in § 1.7.13 of this Part.
- L. Storage Units: Owners or operators of the temporary transfer and storage facility may store hazardous waste only in containers.
- M. Condition of Storage Units: Containers used to store hazardous waste at the transfer and storage facility shall be:
1. In good condition and free of severe rusting, corrosion or structural defects. In the event that a container deteriorates and begin to leak the owner shall transfer the hazardous waste to a container that is in good condition;
  2. Liquid tight with no visible leaks and;
  3. Kept closed at all times.
- N. Secondary Containment for Containers: Containers used to store hazardous waste shall be equipped with secondary containment that at a minimum has the following:
1. An impervious floor or bottom covering the entire storage area; and
  2. Dikes, berms or walls capable of containing a spill or release; and
  3. A capacity equivalent to a minimum of 100% of the volume of the hazardous waste stored in the containers at the facility; and
  4. The entire system shall be impervious to prevent a release; or
  5. An equivalent containment system may be substituted if prior written approval is obtained from the Director.
- O. Interior Storage: Containers at temporary hazardous waste transfer and storage facility shall be stored within a building.

- P. Labeling: Containers used to store hazardous waste at the temporary transfer and storage facility shall be in compliance with § 1.7 of this Part.
- Q. Local Authority: Owners and operators of temporary hazardous waste transfer and storage facilities shall be in compliance with the local building code and fire safety requirements.
- R. Operation: No waste shall be bulked during the storage time.
- S. Response to release: Upon detection of a release of hazardous waste, the owner or operator of the facility shall perform the following:
1. Immediately notify the Department's Emergency Response Program (at 401-222-1360 or after hours at 401-222-3070), the local authorities and the National Response Center (800-424-8802).
  2. Within fifteen (15) days of the incident, the owner or operator of the facility shall submit a written report to OWM. The report should include:
    - a. Name and address of facility;
    - b. Time and type of incident;
    - c. Name and quantity of material(s) involved;
    - d. The extent of injuries;
    - e. Any actions were taken during the incident and;
    - f. The possible hazards to human health or the environmental.
- T. Tracking: Owners or operators of the facilities shall keep a written log of each hazardous waste shipment received for temporary storage at the facility and of each off-site shipment of the hazardous from the facility for a period of at least three years. The owner or operator shall also reconcile the incoming and outgoing shipments of hazardous waste on the written log in order to demonstrate that the hazardous waste is not being stored for greater than the allowed seventy-two (72) hour time period. The written logs shall be provided to the Department upon request.
- U. Owners or operators of the facilities shall maintain a valid hazardous waste transporter permit. The site and vehicle shall be secured to prevent unauthorized access.

## 1.12 Requirements for Community Collection Centers and Paint Collection Centers

### 1.12.1 Community Collection Centers:

- A. This rule shall apply to Community Collection Centers as defined in § 1.5 of this Part that collect hazardous waste, including but not limited to architectural paint. Community Collection Centers may collect only Household Hazardous Waste or hazardous waste from Conditionally Exempt Small Quantity Generators.
- B. Authorization: Community Collection Centers may not accept hazardous waste without having first received a Letter of Authorization from the Department.
- C. Registration Fee: Community Collection Centers shall submit a registration fee of two thousand dollars (\$2,000.00) with each new registration to obtain a Letter of Authorization to operate a Community Collection Center. The yearly renewal fee for a Letter of Authorization shall be five hundred dollars (\$500).
- D. Certification by Generators: Prior to receiving hazardous waste, Community Collection Centers shall ensure that the persons dropping off hazardous waste certify in writing their status as either a Household Hazardous Waste Generator or a CESQG. Community Collection Centers shall maintain these records for at least three years.
- E. Recordkeeping: If hazardous waste is received from a CESQG on a manifest, the Community Collection Center shall sign and date the manifest as described in [40 C.F.R. § 264.71\(a\)\(2\)](#). For waste received from CESQG's not transported using a manifest, the Community Collection Center shall maintain records including the name and address of the CESQG dropping off the waste, shipment date, a description of the type and quantity of the waste and the EPA Identification. The Community Collection Center shall keep the documentation described above for a period of at least three years.
- F. Generator Status of Community Collection Centers:
  - 1. Community Collection Centers shall not qualify as SQGs or CESQGs.
  - 2. In addition to the specific requirements of this Rule, Community Collection Centers shall comply with all requirements applicable to large quantity generators in § 1.7 of this Part including record keeping and waste shipment.
- G. Hazardous Waste Fee: The waiver of the fee for household hazardous waste (R013) shall not apply to waste received by the Community Collection Center from CESQGs with the exception of architectural paint. For all other hazardous waste received from generators, Community Collection Centers are required to pay the

Hazardous Waste Generator fee in accordance with § 1.7.5 of this Part for offsite shipments of hazardous waste.

- H. Bulking: Community Collection Centers may not bulk waste by mixing wastes from different generators into one container or tank, with the exception of waste architectural paints and used oil that may be consolidated for shipping purposes.
- I. Universal Waste Acceptance: Community Collection Centers that receive universal waste from CESQGs or from households shall comply with the requirements of § 1.14.5(A)(9) of this Part.
- J. Storage Limits: Community Collection Centers shall not store more than 1,100 gallons (8,800 pounds) of hazardous waste at any time. Community Collection Centers may store waste for up to one year.
- K. Shipment of Waste:
  - 1. Community collection centers may only ship hazardous waste to the following destinations:
    - a. A designated hazardous waste management facility as per the shipment requirements of § 1.7 of this Part.
    - b. Another Community Collection Center for the purposes of consolidation prior to shipment to a designated facility.
- L. CESQG and HHW Status of the Waste: When CESQG or household hazardous waste is received by a Community Collection Center it shall be considered to be generated by the facility. At this point, it shall be fully regulated as hazardous waste generated by a Large Quantity Generator as per § 1.7 of this Part.

#### **1.12.2 Paint Collection Centers:**

- A. This rule shall apply to Paint Collection Centers as defined in § 1.5 of this Part. Paint Collection Centers may only collect hazardous waste in the form of architectural paint that is either Household Hazardous Waste or hazardous waste from Conditionally Exempt Small Quantity Generators. Paint Collection Centers may also become a universal waste handler by following the requirements outlined in § 1.14 of this Part.
- B. As with other wastes, a determination as to whether architectural paint is a hazardous waste must be made using analysis or generator knowledge as described in § 1.7 of this Part.
- C. Notification: Paint Collection Centers shall file a Notification on a form provided by the Department. There is no fee for registration of Paint Collection Centers.

- D. Use of a Manifest: Paint Collection Centers shall track all outgoing shipments of paint waste on either a hazardous waste manifest or a bill of lading. These shipping documents shall be maintained for a minimum of three (3) years.
- E. Certification by Generators: Prior to receiving hazardous waste, Paint Collection Centers shall ensure that all generators certify in writing their status as a CESQG. Paint Collection Centers shall maintain these records for at least three years.
- F. Recordkeeping: If hazardous waste is received on a manifest from a CESQG, the Paint Collection Center shall sign and date the manifest as required by 40 C.F.R. § 264.71. For waste received from generators not transported using a manifest, the Paint Collection Center shall maintain records including the name and address of the person dropping off the waste as well as the date, description and quantity of the waste. The Paint Collection Centers shall keep the documentation described above for a period of at least three years.
- G. Hazardous Waste Fee: Architectural paint waste received by a Paint Collection Center is exempt from the fee. It may be shipped offsite on a bill of lading or manifest, as appropriate, without payment of the Hazardous Waste Fee.
- H. Bulking: Paint Collection Centers may bulk architectural paints for shipping purposes.
- I. Storage Limits: Paint Collection Centers shall not store more than 1,100 gallons (8,800 pounds) of paint waste. Paint Collection Centers may store waste for up to one year.
- J. Storage of Architectural Paint:
  - 1. Paint Collection Centers shall store paint collected in the following manner:
    - a. The paint shall be stored:
      - (1) In structurally sound collection containers that show no visible evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions and
      - (2) In a secure area, away from ignition sources, storm drains and floor drains.
  - 2. Collection containers must be kept closed except when adding containers of post-consumer paint that have been collected from consumers. A collection container must be labeled with the words "Waste Paint." or each waste storage area must be marked with a sign that states "Waste Paint Storage".

3. In addition to the requirements contained in this rule, Architectural Paint will also be subject to any requirements in an approved Rhode Island Architectural Paint Stewardship Program Plan.
4. Paint that is a hazardous waste is stored for no more than one year.

K. Shipment of Waste:

1. Paint collection centers may only ship hazardous waste to the following destinations:
  - a. A designated hazardous waste management facility as per the shipment requirements of § 1.7 of this Part.
  - b. A Community Collection Center authorized by the Department under § 1.11.1 of this Part.
  - c. Another Paint Collection Center. If the Paint Collection Center is not located in Rhode Island, it must be authorized to collect paint by the appropriate regulatory authority.

### **1.13 Requirements for Circuit Board Recycling Operations**

- A. A facility may conduct shredding, crushing or other size reduction activities of circuit boards in accordance with the conditions specified in 40 C.F.R. § 261.4(a)(14) provided that they notify the Department in writing of this activity. Notification should occur 30 days prior to operation of a new facility and within 90 days of promulgation of these regulations for existing facilities.
- B. A facility that shreds, crushes, heats, or otherwise treats a used electronic device or a component thereof (other than circuit boards), or that breaks the cathode ray tube in any used electronic device, must meet all applicable requirements of 40 C.F.R. §§ 264, 265, 266, 268, 270 and 124, and §§ 1.9 and 1.10 of this Part.

### **1.14 Universal Waste**

#### **1.14.1 Requirements for Universal Waste:**

- A. The wastes listed in this § 1.14 are exempt from regulation under 40 C.F.R. §§ 262 through 270 except as specified in 40 C.F.R. § 273 and § 1.14 of this Part, and therefore are not fully regulated as hazardous waste provided that they are handled in full compliance with the requirements of this Part. The wastes listed in this Part are subject to regulation under 40 C.F.R. § 273 and this Part:
  1. Batteries as described in 40 C.F.R. § 273.2
  2. Pesticides as described in 40 C.F.R. § 273.3

3. Mercury-containing equipment as described in 40 C.F.R. § 273.4.
4. Lamps as described in 40 C.F.R. § 273.5.
5. Used electronics as described in § 1.14.2 of this Part,
6. Silver-containing photo fixing solutions as described in § 1.14.3 of this Part.

#### **1.14.2 Applicability –Used Electronics:**

- A. The requirements of 40 C.F.R. § 273 and this § 1.14 of this Part apply to persons managing used electronics, as defined in § 1.5 of this Part, that have become wastes. Used Electronic wastes that exhibit a hazardous characteristic and that do not fall within the scrap metal exclusions in 40 C.F.R. § 261.4(a)(13) or § 261.6(a)(3)(ii), shall be managed as universal waste (or hazardous waste). R.I. Gen. Laws Chapter 23-24.10, “Electronic Waste Prevention, Reuse and Recycling Act”, bans the disposal of various types of used electronic devices at solid waste facilities.
1. A used electronic device becomes a waste on the date it is discarded. An unused electronic device becomes a waste on the date the handler decides to discard it.
  2. The requirements of 40 C.F.R. § 273 do not apply to persons managing the following used electronics: Used electronics that are not yet wastes under § 1.5 of this Part and 40 C.F.R. § 261. § 1.14.2(A) of this Part describes when used electronics become wastes.
  3. Nothing in this rule is intended to override R.I. Gen. Laws Chapter 23-24.10, Electronic Waste Prevention, Reuse and Recycling Act, that bans the disposal of various types of used electronic devices at Rhode Island Solid Waste Facilities.

#### **1.14.3 Applicability – Silver-containing photo fixing solutions:**

- A. The requirements of 40 C.F.R. § 273 and this § 1.14 of this Part apply to persons managing silver containing photo fixing solutions, as defined in § 1.5 of this Part, that have become wastes, as defined in § 1.5 of this Part, when the wastes are hazardous wastes.
1. A Waste silver-containing photo fixing solution is a hazardous waste if it exhibits one or more of the characteristics identified in 40 C.F.R. § 261, Subpart C. A silver-containing photo fixing solution becomes a waste on the date it is discarded. An unused silver-containing photo fixing solution becomes a waste on the date the handler decides to discard it.

2. The requirements of 40 C.F.R. § 273 do not apply to persons managing the following silver-containing photo fixing solutions:
  - a. Silver-containing photo fixing solutions that are not yet wastes under 40 C.F.R. § 261. § 1.14.3(A) of this Part describes when silver-containing photo fixing solutions become wastes.
  - b. Silver-containing photo fixing solutions that are not hazardous waste. § 1.14.3(A) of this Part describes when silver containing photo fixing solutions are hazardous waste.
3. Other wastes from photo processing operations that exhibit one or more of the characteristics of hazardous waste, including wastes from system cleaning (acid regenerants, system cleaners, and photographic activators (hazardous waste code D002), dichromate based cleaners (hazardous waste code D007), and off-specification chemicals (hazardous waste code D001 and D002), shall be managed as hazardous waste (not universal waste).

#### **1.14.4 Requirements for Universal Waste Handlers and Transporters:**

- A. The following applies to universal waste handlers and universal waste transporters, relative to the universal wastes listed in § 1.14.1 of this Part:
  1. The requirements of 40 C.F.R. § 264 and 40 C.F.R. § 265 do not apply, when handling these wastes.
  2. These handlers and transporters are exempt from 40 C.F.R. §§ 268.7 and 268.50, for these hazardous wastes.
  3. These handlers and transporters are not required to obtain a RCRA permit in order to manage these wastes.
  4. These handlers and transporters are subject to regulation under 40 C.F.R. § 273 and per the requirements of § 1.14 of this Part.
  5. Handlers and transporters that export universal waste are subject to the export requirements of 40 C.F.R. § 273.20 (small quantity handlers), 40 C.F.R. § 273.40 (large quantity handlers) or 40 C.F.R. § 273.56 (transporters) as applicable.

#### **1.14.5 Standards for Universal Waste Management:**

- A. 40 C.F.R. § 273 is incorporated by reference in its entirety, except 40 C.F.R. § 273.3(b)(1) relative to disposal of recalled or unused pesticides (since 40 C.F.R. § 262.70, the farmer exemption, is not recognized by the Department), and as

otherwise provided in these rules. (See also definition of "EPA" for portions of the C.F.R. where "EPA" is replaced by "Department").

1. 40 C.F.R. § 273.1 – Scope: The provisions are incorporated by reference with the following changes to 40 C.F.R. § 273.1(a):
  - a. Add “(5) Used electronics as defined in this Part.”
  - b. Add “(6) silver-containing photo fixing solutions as defined in these Rules.”
2. 40 C.F.R. § 273.2 Applicability-Batteries: The provisions are incorporated by reference with the following change:
  - a. Add “(d) Exceptions to 40 C.F.R. § 273.2(b)(3). Waste nickel-cadmium, mercuryoxide, and lead acid dry cell batteries shall be managed as universal waste (or hazardous waste) whether or not they exhibit a hazardous characteristic. The disposal of these wastes at solid waste facilities is prohibited, per the solid waste disposal ban in R.I. Gen. Laws Chapter 23-60.1, “Dry Cell Battery Control”.
3. 40 C.F.R. § 273.4 Applicability- Mercury-Containing Equipment: The provisions are incorporated by reference with the following changes:
  - a. Delete 40 C.F.R. § 273.4(b)(2).
  - b. Add 40 C.F.R. § 273.4(d) to read as follows: “Waste Mercury-containing equipment shall be managed as universal waste (or hazardous waste) whether or not it exhibits a hazardous characteristic. The disposal of these wastes at solid waste facilities is prohibited, per R.I. Gen. Laws Chapter 23-24.9, “Mercury Reduction and Education Act”.
4. 40 C.F.R. § 273.5 Applicability- Lamps: The provisions are incorporated by reference with the following changes:
  - a. Delete 40 C.F.R. § 273.5(b)(2).
  - b. Add 40 C.F.R. § 273.5(d) to read as follows: “Waste lamps shall be managed as universal waste (or hazardous waste) if they meet the federal or state definition of hazardous waste. Lamps that contain mercury at levels below the federal standard are still Rhode Island Hazardous Wastes (R009) if they have any added mercury. The disposal of these wastes at solid waste facilities is prohibited, except as provided in § 1.14.5(A)(5)(b) (household exemption), per the solid waste disposal ban on lamps in R.I. Gen. Laws Chapter 23-24.9 “Mercury Reduction and Education Act”.

- c. Lamp ballasts containing PCB's shall be managed as a hazardous waste (See definition of PCB Waste- R007 in § 1.5 of this Part) in accordance with § 1.7 of this Part.
- 5. 40 C.F.R. § 273.8— Applicability—household and conditionally exempt small quantity generator waste.
- 6. 40 C.F.R. § 273.8 is not incorporated by reference. Instead, the following provisions shall apply:
  - a. Persons who are household hazardous waste collection facilities, as described in § 1.7 of this Part, and who handle wastes of the types described in the "Universal Waste" definition in § 1.5 of this Part, shall either handle those wastes in compliance with all requirements applicable to hazardous waste generators as provided in § 1.7 of this Part or shall handle those wastes as universal wastes per the requirements of this part.
  - b. Persons who are conditionally exempt small quantity generators and who:
    - (1) Generate waste batteries (except for waste nickel-cadmium, mercuric oxide, and lead acid dry cell batteries), waste pesticides, and/or silver- containing photo fixing solutions as described in the "Universal Waste" definition in § 1.5 of this Part shall either handle those wastes as hazardous waste in compliance with the requirements of § 1.7 of this Part or shall handle those wastes as universal wastes per the requirements of this part.
    - (2) Generate and dispose of certain waste dry cell batteries (i.e., waste nickel-cadmium, mercuric oxide, or lead acid dry cell batteries), used electronics, waste mercury- containing equipment and/or waste lamps as defined in the "Universal Waste" definition in § 1.5 of this Part shall either dispose of these wastes as hazardous waste or universal waste per the requirements of this part. This satisfies the solid waste disposal ban in R.I. Gen. Laws Chapters 23-60.1, 23-24.10, and 23-24.9.
  - c. Persons who commingle regulated universal wastes with wastes of the types described in the "Universal Waste" definition in § 1.5 of this Part from households or from Conditionally Exempt Small Quantity Generators, shall handle the commingled wastes as hazardous wastes or universal wastes per the requirements of this part.

7. 40 C.F.R. § 273.9– Definitions: The provisions are incorporated by reference with the following changes:
  - a. Replace the definition of “Large Quantity Handler of Universal Waste” with the § 1.5 of this Part definition of “Large Quantity Handler of Universal Waste”.
  - b. Replace the definition of “Small Quantity Handler of Universal Waste” with the § 1.5 of this Part definition of “Small Quantity Handler of Universal Waste”.
  - c. Add to the definition of “Universal Waste” “(5) Used electronics as defined in this Part.”
  - d. Add to the definition of “Universal Waste” “(6) Silver-containing photo fixing solutions as defined in this Part.”
  - e. In the definition of “Destination facility” add the following after the last sentence: “A facility that shreds, crushes, heats, or otherwise treats a used electronic device or a component thereof (other than circuit boards), or that breaks the cathode ray tube in any universal waste used electronic device is a destination facility.”
8. 40 C.F.R. § 273.11 – Prohibitions: The provisions are incorporated by reference with the following changes:
  - a. Add “(c) Prohibited from shredding, crushing or intentionally breaking universal waste except as provided in § 1.8 in this Part.”
  - b. Add “(d) Prohibited from managing a significant number of broken items of universal waste of any given type on any day as universal waste. An insignificant number of items of unintentionally broken waste may be managed as universal waste, provided that they are immediately managed to prevent releases of any universal waste or component of universal waste to the environment. For the purposes of these regulations, physical breakage of one item or less than 10% of the total items in storage onsite at any given time shall be considered insignificant.
9. 40 C.F.R. § 273.13 - Waste Management: The provisions are incorporated by reference with the following changes:
  - a. Add “(e) Used electronics. A small quantity handler of universal waste shall manage used electronics that are universal wastes in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

- (1) Store all used electronics inside a building with a roof and four walls or in a portable storage unit that is completely enclosed and weatherproof, or in the cargo-carrying portion of a truck, such as a trailer. Storage shall be in a manner that prevents used electronics from being exposed to the environment and ensures that all used electronics are handled, stored and transported in a manner that maintains the reuse or recyclability of any such used electronic or component thereof.
- (2) A small quantity handler of universal waste shall contain any cathode ray tube(s) from used electronic device and other used electronics that shows evidence of breakage, leakage, spillage, or damage that could cause the release of glass particles or other hazardous constituents under reasonable foreseeable conditions in a container. The container shall be closed, structurally sound, compatible with the contents of the cathode ray tube(s) and other used electronics, and must lack evidence of breakage, leakage, spillage, or damage that could cause the release of glass particles or other hazardous constituents under reasonably foreseeable conditions. Any released glass particles, other constituents, and clean-up residues resulting from the breakage, leakage, spillage, or damage of cathode ray tube(s) or used electronics shall be managed as universal waste or hazardous waste, whether or not they exhibit a hazardous characteristic. The disposal of these wastes at solid waste facilities is prohibited, per the solid waste disposal ban in R.I. Gen. Laws Chapter 23-24.10, "Electronic Waste Prevention, Reuse and Recycling Act".
- (3) A small quantity handler of universal waste may conduct the following activities:
  - (AA) Sorting display devices/cathode ray tubes or other used electronics by type;
  - (BB) Managing different types of display devices/cathode ray tubes or other used electronics in the same container;
  - (CC) Testing display devices/cathode ray tubes or other used electronics to determine if they are capable of being returned to service;
  - (DD) Removing cathode ray tubes or other used electronics from display device casings;

- (EE) Disassembling used electronics to separate batteries, circuit boards, or other components for the purpose of marketing, reselling, reusing or recycling such components, provided no treatment is occurring;
  - (FF) Receive and handle circuit boards provided that mercury switches/relays, nickel-cadmium batteries and lithium batteries are removed prior to processing or shipment offsite.
- (4) A small quantity handler of universal waste may also conduct shredding, crushing, or other size reduction activities of circuit boards in accordance with the conditions specified in 40 C.F.R. § 261.4(a)(14) provided they notify the Department in writing of this activity. Notification should occur 30 days prior to operation of a new facility and within 90 days of promulgation of these regulations for existing facilities.
- (5) A small quantity handler of universal waste shall not conduct the following activity: Breaking of cathode ray tubes in used electronic devices.
- (6) A small quantity handler of universal waste may disassemble used electronics provided that the handler:
- (AA) Ensures that used electronics are disassembled in a manner designed to prevent the release of any universal waste or component of universal waste to the environment;
  - (BB) Ensures that the disassembly operations are performed safely by developing and implementing a written procedure detailing how to safely disassemble each used electronic device managed at the facility. This procedure shall include: the type of equipment to be used to disassemble the used electronic device safely, operation and maintenance of equipment, segregation of incompatible wastes and proper waste management practices;
  - (CC) Ensures that a spill clean-up kit is readily available to immediately clean up spills or leaks of the contents of the used electronic device that may occur during disassembly operations;

- (DD) Segregates and transfers the disassembled electronic components to containers that meet the requirements of § 1.14 of this Part.
  - (EE) Ensures that employees are thoroughly familiar with the procedures for disassembling used electronics, proper waste handling, and emergency procedures relevant to their responsibilities during normal facility operations and emergencies and
  - (FF) Maintains a system to ensure compliance with the written disassembling and management procedures.
- b. Add “(f) Universal Waste Silver-containing photo fixing solutions. A small quantity handler of universal waste shall manage universal waste silver-containing photo fixing solutions in a way that prevents releases of any universal waste or component of universal waste to the environment. The universal waste silver-containing photo fixing solutions shall be contained in one or more of the following:
  - (1) A container that remains closed, structurally sound, compatible with the silver-containing photo fixing solutions, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or
  - (2) A container that does not meet the requirements of the above listed rule may be managed by placing it in an overpack container that does meet the requirements of this Part; or
  - (3) A tank that meets the requirements of the tank provisions in § 1.7.13 of this Part; or
  - (4) A transport vehicle or vessel that is closed, structurally sound, compatible with the silver-containing photo fixing solutions, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.”
- c. Regarding Mercury Containing Equipment: Delete 40 C.F.R. § 273.13(c)(4)(iii) and replace with “(iii) if the mercury containing wastes, and/or residues containing mercury is not a characteristic hazardous waste, such waste shall still be handled as universal waste (or hazardous waste). The disposal of these wastes at solid waste facilities is prohibited, per the solid waste disposal ban in R.I. Gen. Laws Chapter 23-24.9 “Mercury Reduction and Education Act”.”

10. 40 C.F.R. § 273.14 – Labeling/markings: The provisions are incorporated by reference with the following changes:
  - a. Add “(f) Used electronic devices or containers of used electronic devices shall be clearly labeled (or clearly marked) as follows:
    - (1) Cathode ray tubes shall be labeled with one of the following phrases: “Universal Waste- Cathode Ray Tube(s)”, “Waste Cathode Ray Tube(s)” or “Used Cathode Ray Tube(s)”.
    - (2) Other used electronic devices (that are not cathode ray tubes) shall be labeled with one of the following phrases: “Universal Waste- “Used Electronic Devices not containing CRTs”.
    - (3) Containers with both cathode ray tubes and other used electronic devices shall be labeled with the following phrase: “Universal Waste- Used Electronic Devices with CRTs”
  - b. Add “(g) A container, (or multiple container package unit), tank, transport vehicle or vessel in which used universal waste silver containing photo fixing solutions as described in § 1.14.3 of this Part are contained shall be labeled or marked clearly with either of the phrases “Universal Waste- Silver-Containing Photo Fixing Solution(s)” or “Waste-Silver-Containing Photo Fixing Solution(s)”.
11. 40 C.F.R. § 273.18 - Off-site shipments. The provisions are incorporated by reference with the following change: in paragraph (g) replace "appropriate regional EPA office" and "EPA regional office" with "Department".
12. 40 C.F.R. § 273.31 – Prohibitions. The provisions are incorporated by reference with the following changes:
  - a. Add “(c) Prohibited from shredding, crushing or intentionally breaking universal waste except as provided in § 1.14.5(A)(14) of this Part (“Waste Management”).”
  - b. Add “(d) Prohibited from managing a significant number of broken items of universal waste of any given type on any day as universal waste. An insignificant number of items of unintentionally broken waste may be managed as universal waste, provided that they are immediately managed to prevent releases of any universal waste or component of universal waste to the environment. For the purposes of these regulations, physical breakage of one item or less than 10% of the total amount of universal waste items in storage onsite at any time shall be considered insignificant.”

13. 40 C.F.R. § 273.32 – Notification. The provisions are incorporated by reference with the following changes:
  - a. In 40 C.F.R. § 273.32(a)(1), after “5000-kilogram storage limit” add “(or the 20,000-kilogram storage limit for used electronics)”
  - b. Revise 40 C.F.R. § 273.32(b)(4) to read “A list of all types of universal waste managed by the handler (e.g. batteries, pesticides, mercury-containing equipment, lamps, used electronics, and silver-containing photo fixing solutions);
  - c. In 40 C.F.R. § 273.32(b)(5), after “5000 kg of universal waste” add “(or 20,000 kg of used electronics)”
  
14. 40 C.F.R. § 273.33 – Waste Management. The provisions are incorporated by reference with the following changes:
  - a. Add “(e) Used electronics. A large quantity handler of universal waste shall manage used electronics that are universal wastes in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
    - (1) Store all used electronics inside a building with a roof and four walls or in a portable storage unit that is completely enclosed and weatherproof, or in the cargo-carrying portion of a truck, such as a trailer. Storage shall be in a manner that prevents used electronics from being exposed to the environment and ensures that all used electronics are handled, stored and transported in a manner that maintains the reuse or the potential to reuse or recycle of any such used electronic or component thereof.
    - (2) A large quantity handler of universal waste shall contain any cathode ray tube(s) from used electronic device and other used electronics that shows evidence of breakage, leakage, spillage, or damage that could cause the release of glass particles or other hazardous constituents under reasonable foreseeable conditions in a container. The container shall be closed, structurally sound, compatible with the contents of the cathode ray tube(s) and other used electronics, and must lack evidence of breakage, leakage, spillage, or damage that could cause the release of glass particles or other hazardous constituents under reasonably foreseeable conditions. Any released glass particles, other constituents, and clean-up residues resulting from the breakage, leakage, spillage, or damage of cathode ray tube(s) or used electronics shall be

managed as universal waste (or hazardous waste), whether or not they exhibit a hazardous characteristic. The disposal of these wastes at solid waste facilities is prohibited, per the solid waste disposal ban in R.I. Gen. Laws Chapter 23-24.10, "Electronic Waste Prevention, Reuse and Recycling Act".

- (3) A large quantity handler of universal waste may conduct the following activities:
  - (AA) Sorting display devices/cathode ray tubes or other used electronics by type.
  - (BB) Managing different types of display devices/cathode ray tubes or other used electronics in the same container.
  - (CC) Testing display devices/cathode ray tubes or other used electronics to determine if they are capable of being returned to service.
  - (DD) Removing cathode ray tubes or other used electronics from display device casings.
  - (EE) Disassembling used electronics to separate batteries, circuit boards, or other components for the purpose of marketing, reselling, reusing or recycling such components, provided no treatment is occurring.
  - (FF) Receive and handle circuit boards provided that mercury switches/relays, nickel-cadmium batteries and lithium batteries are removed prior to processing or shipment offsite.
- (4) A large quantity handler of universal waste may also conduct shredding, crushing, or other size reduction activities of circuit boards in accordance with the conditions specified in 40 C.F.R. § 261.4(a)(14) provided they notify the Department in writing of this activity. Notification should occur 30 days prior to operation of a new facility and within 90 days of promulgation of these regulations for existing facilities.
- (5) A large quantity handler of universal waste shall not break cathode ray tubes in used electronic devices.
- (6) A large quantity handler of universal waste may disassemble used electronics provided that the handler:

- (AA) Ensures that used electronics are disassembled in a manner designed to prevent the release of any universal waste or component of universal waste to the environment;
  - (BB) Ensures that the disassembly operations are performed safely by developing and implementing a written procedure detailing how to safely disassemble each used electronic device managed at the facility. This procedure shall include: the type of equipment to be used to disassemble the used electronic device safely, operation and maintenance of equipment, segregation of incompatible wastes and proper waste management practices;
  - (CC) Ensures that a spill clean-up kit is readily available to immediately clean up spills or leaks of the contents of the used electronic device that may occur during disassembly operations;
  - (DD) Segregates and transfers the disassembled electronic components to containers that meet the requirements of § 1.14.5(A)(14)(a)(2) of this Part.
  - (EE) Ensures that employees are thoroughly familiar with the procedures for disassembling used electronics, proper waste handling, and emergency procedures relevant to their responsibilities during normal facility operations and emergencies and
  - (FF) Maintains a system to ensure compliance with the written disassembling and management procedures.
- b. Add “(f) Universal Waste Silver-containing photo fixing solutions. A large quantity handler of universal waste shall manage universal waste silver-containing photo fixing solutions in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste silver-containing photo fixing solutions shall be contained in one or more of the following:
- (1) A container that remains closed, structurally sound compatible with the silver-containing photo fixing solutions, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or

- (2) A container that does not meet the requirements of the above listed rule may be managed by placing it in an overpack container that does meet the requirements of this Part; or
    - (3) A tank that meets the requirements of the tank provisions in § 1.7.13.4 of this Part; or
    - (4) A transport vehicle or vessel that is closed, structurally sound, compatible with the silver-containing photo fixing solutions, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.
  - c. Delete 40 C.F.R. § 273.33(c)(4)(iii) and replace with “(iii) If the mercury containing waste and/or residues containing mercury is not a characteristic hazardous waste, such waste shall still be handled as universal waste (or hazardous waste- R009) and not as solid waste.
- 15. 40 C.F.R. § 273.34 – Labeling/markings. The provisions are incorporated by reference with the following changes:
  - a. Add “(f) Used electronics devices or containers of used electronic devices shall be clearly labeled (or clearly marked) as follows:
    - (1) Cathode ray tubes shall be labeled with one of the following phrases: “Universal Waste- Cathode Ray Tube(s)”, “Waste Cathode Ray Tube(s)” or “Used Cathode Ray Tube(s)”.
    - (2) Other used electronics devices (that are not cathode ray tubes) shall be labeled with one of the following phrases: “Universal Waste- “Used Electronic Devices not containing CRTs”.
  - b. Add “(g) A container, (or multiple container package unit), tank, transport vehicle or vessel that used universal waste silver-containing photo fixing solutions as described in § 1.14.3 are contained shall be labeled or marked clearly with the words “Universal Waste-Silver Containing Photo Fixing Solution(s)” or “Waste-Silver-Containing Photo Fixing Solution(s);”
- 16. 40 C.F.R. § 273.38 - Off-site shipments. The provisions are incorporated by reference with the following change:
  - a. In paragraph (g) replace "appropriate regional EPA office" and "EPA regional office" with "Department".
- 17. 40 C.F.R. § 273.51 – Prohibitions. The provisions are incorporated by reference with the following changes:

- a. Add “(c) Prohibited from shredding, crushing or intentionally breaking universal waste.”
  - b. Add “(d) Prohibited from managing a significant number of broken items of universal waste of any given type in a transportation unit as universal waste. An insignificant number of unintentionally broken waste in a transportation unit may be managed as universal waste, provided that they are immediately managed to prevent releases of any universal waste or component of universal waste to the environment. For the purposes of these regulations, physical breakage of one item or less than 10% of the total amount of items onsite at any time shall be considered insignificant.
18. 40 C.F.R. § 273.60 – Applicability. The provisions are incorporated by reference with the following change: In paragraph (a) after the phrase “of this chapter,” add “to all applicable requirements of §§ 1.9, 1.10 and 1.13 of this Part,”
19. 40 C.F.R. § 273.61 - Off-site shipments. The provisions are incorporated by reference with the following change:
- a. In paragraph (c) replace "appropriate regional EPA office" and "EPA regional office" with "Department".
20. 40 C.F.R. § 273.80 – Petitions to Include Other Wastes, Under 40 C.F.R. § 273; General. The provisions are incorporated by reference with the following changes:
- a. In 40 C.F.R. §§ 273.80(b) and 273.80(c), delete “Administrator” and replace with “Director”.

## **1.15 Mixed Waste**

- A. These rules apply to Mixed Waste as defined in § 1.5 of this Part.
- B. Requirements for Mixed Waste: Mixed Waste shall be subject to this Part and to the Rhode Island Department of Health’s “Rules and Regulations for the Control of Radiation”.
- C. Conditional Exemptions: The provisions of 40 C.F.R. § 266 Subpart N are incorporated by reference, relative to the conditional exemptions for low-level mixed waste and the transportation and disposal conditional exemption for eligible NARM waste.

## **1.16 Used Oil Management Standards**

### **1.16.1 Purpose and Applicability**

- A. This rule provides an alternative to managing used oil as hazardous waste under § 1.7.3 of this Part (Hazardous Waste Determination); it identifies those materials that may and may not be managed as used oil, and establishes standards for their handling, storage, transport, aggregation, collection, and burning of used oil as fuel. This rule also establishes management standards for used oil that is reused, sent for reclamation, processed or burned for energy recovery. Used oil, as defined in § 1.5 of this Part, that is to be reused, reclaimed, processed, re-refined or burned for energy recovery is subject to the requirements of § 1.16 of this Part. This rule does not apply to used oil, or material derived from used oil, that is disposed of, sent for disposal or used in a manner constituting disposal, that shall be evaluated to determine if the used oil is subject to regulation as a hazardous waste in accordance with § 1.7.3 of this Part (Hazardous Waste Determination). Used oil that does not meet the definition of a hazardous waste and is not managed in accordance with § 1.11 of this Part shall be managed as a solid waste in accordance with the applicable regulations.
1. Used oil that exhibits any of the hazardous waste characteristics identified in § 1.5 or in 40 C.F.R. § 261 Subpart C is subject to § 1.16 of this Part except that the used oil may be excluded from burning for energy recovery pursuant to §§ 1.5 and 1.16.3(A)(5) of this Part.
  2. Mixtures of used oil and hazardous wastes that are federally listed in 40 C.F.R. § 261 Subpart D shall be managed as hazardous waste
    - a. Used oil that contains greater than 1,000 ppm of total halogens is presumed to have been mixed with one or more halogenated hazardous wastes listed in 40 C.F.R. § 261 Subpart D. Persons may rebut the presumption that the used oil has been mixed with the hazardous waste designated in 40 C.F.R. § 261.31 (a) as F001 or F002 by demonstrating through analysis that none of the following halogenated hazardous waste constituents are present in the used oil at a concentration of greater than 100 parts per million: tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, chlorinated fluorocarbons, chlorobenzene, 1,1,2trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, trichlorofluoromethane or 1,1,2-trichloroethane. To rebut the presumption that the used oil has been mixed with any hazardous waste, other than F001 or F002, listed in 40 C.F.R. § 261, Subpart D, a person shall demonstrate that the used oil does not contain hazardous waste by having the used oil analyzed in accordance with § 1.7.3 of this Part and demonstrating that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII of 40 C.F.R. § 261. Unless and until such person has rebutted the presumption, a used oil containing more than 1,000 parts per million total halogens shall be considered a hazardous waste and shall be managed as such.

- b. The rebuttable presumption set forth in § 1.16.1(A)(2)(a) of this Part does not apply to metal working oils/fluids that contain chlorinated paraffins that are reclaimed/processed under a tolling arrangement as defined in § 1.5 of this Part. Metal working oils/fluids that are recycled in any other manner are subject to the rebuttable presumption set forth in § 1.16.1(A)(2)(a) of this Part.
    - c. Used oil contaminated with Chlorofluorocarbons (CFCs) removed from refrigeration units that are destined for reclamation is not subject to the rebuttable presumption set forth in § 1.16.1(A)(2)(a) of this Part. The rebuttable presumption does apply to used oil contaminated with CFCs from sources other than refrigeration units.
  3. Mixtures of used oil and hazardous waste where the hazardous waste mixed with the used oil is hazardous only because it exhibits the characteristic of ignitability identified in 40 C.F.R. § 261.21 are subject to this rule and may be managed accordingly if the resultant mixture does not exhibit any characteristics of hazardous waste identified in 40 C.F.R. § 261 Subpart C.
    - a. Mixtures of used oil and ignitable hazardous waste that do not meet the criteria listed in § 1.16.1(A)(3) are not subject to this Part and shall be managed in accordance with § 1.7 of this Part.
  4. Materials containing or otherwise contaminated with used oil are regulated as used oil under this Part, unless the used oil has been drained or removed to the extent practicable so that no free flowing liquid is present. Such materials, if all free flowing used oil is removed, are subject to the waste characterization requirements under § 1.7.3 of this Part (Hazardous Waste Determination) and may be subject to additional requirements of this Part if the materials meet the definition of Hazardous Waste. Materials contaminated with used oil that are burned for energy recovery in accordance with § 1.16.3 of this Part are regulated under this Part. Mixtures of used oil and any petroleum based products shall be managed in accordance with § 1.16 of this Part.
  5. Used automotive engine oil filters that are not tene-plated and were not contaminated by mixtures of used oil and any Federally listed hazardous waste identified in 40 C.F.R. § 261 Subpart D are not subject to § 1.16 or §§ 1.1 through and including 1.10 and 1.18 of this Part if the filters were gravity hot-drained using one of the following methods:
    - a. Puncturing the filter anti-drain back valve or the filter dome end and hot draining;
    - b. Hot-draining and mechanically crushing the filter;

- c. Any other equivalent hot draining method that will remove all pourable liquids from the filter; or
  - d. Cold-draining and crushing using a mechanical, pneumatic, or hydraulic device designed for the purpose of crushing oil filters and effectively removing the oil.
6. Used automotive engine oil filters that are terne-plated are not subject to § 1.16 or §§ 1.1 through and including 1.10 and 1.18 of this Part if the generator processes the filters in accordance with § 1.16.1(A)(5) of this Part, sends the processed filters out for scrap metal reclamation and documents the recycling of the filters.
  7. All free liquids that are collected as a result of any draining activity shall be properly managed in accordance with § 1.16 of this Part. Used automotive oil filters that are not fully drained using one of the methods prescribed above may be managed as a material contaminated with used oil in accordance with the requirements of § 1.16 of this Part.
  8. Materials derived or otherwise reclaimed from used oil that are used in place of new product and are not burned for energy recovery or used in a manner constituting disposal are not used oil, are not hazardous waste and are not solid waste. Materials derived from used oil that are burned for energy recovery are subject to the requirements of § 1.16.3 of this Part. Materials derived from used oil that are used in a manner constituting disposal are subject to the requirements of § 1.7 of this Part.
  9. Wastewater contaminated with “De Minimis” quantities of used oil that is discharged in accordance with the Department’s Water Quality Regulations, permits issued by local POTWs and Section 307 or Section 402 of the Clean Water Act is not regulated by this Part. De Minimis quantities for the purpose of this Rule shall be defined as leaks or drippings from equipment or machinery that enter the wastewater treatment system inadvertently during normal operations or maintenance. Used oil that enters a wastewater treatment system as a result of abnormal manufacturing processes (e.g., pipeline or pump failures) or by direct discharges and any used oil removed from wastewater is subject to § 1.16 of this Part.
  10. Used oil produced on vessels from shipboard operations is not subject to § 1.16 of this Part until it is transported onto shore.
  11. Used oil containing levels of polychlorinated biphenyls (PCBs) that are determined to be below 50 ppm through analytical testing (or by satisfying the requirements of 40 C.F.R. § 761.2) may be managed under § 1.16 of this Part. Used oil containing PCBs at levels of 50 ppm or greater are

hazardous wastes as defined in § 1.5 of this Part and shall be managed in accordance with §§ 1.1 through 1.10 and 1.18 of this Part.

12. Household used oil generators are exempt from the provisions of § 1.16 of this Part. Once household generator used oil is in the possession of a used oil collection center, used oil transporter, used oil burner, or used oil processor/re-refiner, the used oil is subject to regulation under this rule.
13. Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products are not subject to the requirements of this rule.
14. Mixtures of used oil and fuel or other fuel products and tank bottoms from such mixtures are subject to this Part.
15. Used oil burners, used oil generators, used oil transporters, used oil temporary storage facilities, used oil collection centers, used oil aggregation points, used oil processor/re-refiners and used oil marketers while handling used oil may also be subject to federal regulation by the USEPA pursuant to the Code of Federal Regulations (C.F.R.). Used oils containing any quantifiable levels of polychlorinated biphenyls (PCBs) are subject to regulation under 40 C.F.R. § 761.20(e). Used oils containing PCBs at levels of 50 ppm or greater are subject to regulation under all of 40 C.F.R. § 761. The storage of used oil on-site may also be subject to regulation by the USEPA under 40 C.F.R. § 112 (SPCC Program).

#### **1.16.2 Prohibitions:**

- A. The following uses or activities are prohibited:
  1. The mixing of hazardous wastes with used oil, except as provided for in § 1.16.1(A)(3) of this Part;
  2. The use of any used oil for road oiling or dust suppression;
  3. Burning off-specification used oil as defined in § 1.16.3 of this Part, unless the used oil is generated on-site or at a used oil aggregations point also under the control of the generator and burned in used oil burning equipment with a capacity of equal to or less than five hundred thousand (500,000) Btu per hour;
  4. Burning used oil for firefighter training;
  5. Management of used oil in anything other than containers or tanks;
  6. Any disposal of used oil to the land or waters of the State;

7. The disposal of used oil into a subsurface discharge system or Underground Injection Control system (UIC); and
8. Shipment of used oil to a facility that has not notified the Department of its used oil activity and/or obtained the appropriate Letter of Authorization or Permit as required by § 1.16 of this Part; unless the used oil is being managed as a hazardous waste in accordance with the requirements of §§ 1.7 and 1.8 of this Part.

### **1.16.3 Burning Used Oil for Energy Recovery:**

- A. This rule applies to owners and operators of used oil burning equipment as defined in § 1.5 of this Part. Used oil, or any fuel produced by processing used oil, may only be burned at a commercial facility in a space heater, industrial furnace or boiler provided that the used oil burner conducting the burning complies with all of the requirements of this rule. Used Oil Processor/re-refiner facilities that burn small amounts of used oil as a result of processing used oil are not subject to the requirements of § 1.16.3 of this Part.
  1. Used oil burners that utilize used oil burning equipment with heat input capacity of less than or equal to 500,000 BTU/hr to burn either specification used oil or off-specification used oil shall comply with the following requirements:
    - a. The used oil burner only burns used oil that is generated on-site by routine facility processes; and
    - b. The emissions produced by the used oil burning equipment are vented to ambient air outside of any building or structure.
  2. Used oil burners that utilize used oil burning equipment with heat input capacity of less than or equal to 500,000 BTU/hr to burn specification used oil that was not generated on-site shall comply with the following requirements:
    - a. Prior to burning, the used oil burner has the used oil analyzed by a laboratory, or obtains certified copies of analytical test results conducted by a laboratory from the used oil generator, used oil transporter, or used oil processor/re-refiner to verify that it meets the definition of specification used oil;
    - b. The used oil burner shall maintain copies of the actual analytical testing results at the facility where the burning activity occurs for a period of at least (3) three years and shall provide such records to the DEM upon request;

- c. The used oil burner may aggregate off-specification used oil generated on-site or at a used oil aggregations point also under the control of the generator with virgin oil or specification used oil for the purposes of burning used oil on-site provided that the used oil burner first has the mixture of used oil analyzed to ensure that it meets the definition of specification used oil in accordance with this section, but may not aggregate for the purposes of producing specification used oil for offsite shipment;
    - d. The used oil burner, prior to burning any used oil, shall notify the Department's Office of Air Resources of his/her intent to burn specification used oil in accordance with § 1.16 of this Part. Used oil burners subject to the requirements of § 1.16.3(A)(2) of this Part shall obtain an EPA Identification Number as per § 1.7.4(A) of this Part.
3. Used oil burners that utilize used oil burning equipment with heat inputs of greater than 500,000 BTUs/hr but less than 1,000,000 BTUs/hr to burn used oil shall comply with the following requirements:
  - a. The used oil burner only burns used oil that meets the definition of specification used oil contained in § 1.16.3 of this Part;
  - b. Prior to burning, the used oil burner has the used oil analyzed by a laboratory, or obtains certified copies of analytical test results conducted by a laboratory from the used oil generator, used oil transporter, or used oil processor/re-refiner to verify that it meets the definition of specification used oil;
  - c. The used oil burner shall maintain records of analytical testing at the facility where the burning activity occurs for a period of at least three years and shall provide such records to the DEM upon request;
  - d. The used oil burner may aggregate off-specification used oil generated on-site with virgin oil or specification used oil for the purposes of burning used oil on-site provided that the used oil burner first has the mixture of used oil analyzed to ensure that it meets the definition of specification used oil in accordance with this rule, but may not aggregate for the purposes of producing specification used oil for offsite shipment;
  - e. The used oil burner, prior to burning any used oil, shall notify the Department's Office of Air Resources of his/her intent to burn specification used oil in accordance with § 1.16 of this Part. Used oil burners subject to the requirements of § 1.16.3(A)(3) of this Part shall obtain an EPA Identification Number as per § 1.7.4(A) of this Part.

4. Used oil burners that utilize used oil burning equipment with heat inputs of greater than or equal to 1,000,000 BTUs/hr to burn used oil shall comply with the following requirements:
  - a. The used oil burner only burns used oil that meets the definition of specification used oil contained in these regulations;
  - b. Prior to burning the used oil burner has the used oil analyzed by a laboratory, or obtains certified copies of analytical test results conducted by a laboratory from the generator, transporter or processor, to verify that it meets the definition of specification used oil;
  - c. The used oil burner shall maintain records of analytical testing at the facility where the burning activity occurs for a period of at least three years and shall provide such records to the Department upon request;
  - d. The used oil burner may aggregate off-specification used oil generated on-site with virgin oil or specification used oil for the purposes of burning used oil on-site provided that the used oil burner first has the mixture of used oil analyzed to ensure that it meets the definition of specification used oil in accordance with this rule, but may not aggregate for the purposes of producing specification used oil for offsite shipment;
  - e. The used oil burner shall obtain written approval for such activity from the Department's Office of Air Resources pursuant to its Air Pollution Control Regulations prior to burning used oil. Used oil burners subject to the requirements of § 1.16.3(A)(4) of this Part shall obtain an EPA Identification Number by submitting a completed [notification](#) to the Department [as per § 1.7.4\(A\) of this Part.](#)
  
5. Specification used oil shall meet the limits established in Table [3, § 1.16.3\(A\)\(6\) of this Part](#) below. Used oil burners, used oil generators, used oil transporters, used oil collection centers, used oil aggregation points, used oil processor/re-refiners and used oil marketers shall conduct the analytical test methods listed in Table [3, § 1.16.3\(A\)\(6\) of this Part](#) below in order to demonstrate that their used oil meets the definition of specification used oil. Alternate test methods may be used provided the person, prior to testing, documents in writing that the test method to be used is approved by the EPA.
  
6. Table [3](#): Constituent/ property, Allowable levels, Test methods

Table 3
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Constituent/property	Allowable levels (Using Column C test methods)	Test Methods
Arsenic	5 ppm maximum	EPA Methods 7060A, 761A, 7062, 6010B, or 6020
Cadmium	2 ppm maximum	EPA Methods 7130, 7131A, 6010B, or 6020
Chromium	10 ppm maximum	EPA Methods 7190, 7191, 6010B, or 6020
Lead	100 ppm maximum	EPA Methods 7420, 7421, 6010B, or 6020
Polychlorinated biphenyls (PCBS)	<2 ppm	EPA Method 600/4-81-045
Flash Point	100 Degrees F minimum	EPA Methods 1010 or 1020A
Total Halogens	1,000 (see Rules 15 (E)(1))	EPA Methods 9075, 9076, 9077, 5050/9056, 5050/9253, or ASTM Method D 808-95

- a. Used oil that contains greater than 1,000 ppm total halogens is presumed to be a hazardous waste and is subject to the rebuttable presumption set forth in § 1.16.1(A)(2)(a) of this Part. If the used oil burner successfully demonstrates that the halogens contained in the used oil are not listed in 40 C.F.R. § 261 Subpart D, then the allowable level of total halogens will be a maximum of 4,000 ppm.
  - b. Test Methods identified in Table 3, § 1.16.3(A)(6) of this Part, as EPA Methods shall mean the test method as described in EPA Publication SW-846, [as incorporated by reference in 40 C.F.R. § 260.11 of this chapter.](#)
7. Used oil burners are subject to any applicable sections of the Oil Pollution Control Regulations and the Regulations for Underground Storage Facilities

Used for Petroleum Products and Hazardous Materials and shall also comply with all of the following storage and handling requirements:

- a. Storage Units: Used oil burners shall not store used oil in units other than tanks and containers.
- b. Condition of Storage Units: Containers and aboveground storage tanks used to store used oil on-site shall be:
  - (1) In good condition and free of severe rusting, corrosion or structural defects. In the event that a container or aboveground storage tank has deteriorated to a point at which the container or tank threatens to leak, the used oil burner shall transfer the used oil from the failing storage unit to a container or above ground storage tank that is in good condition;
  - (2) Liquid tight with no visible leaks.
- c. Secondary Containment for Containers and Aboveground Tanks: Containers and aboveground tanks used to store used oil shall be equipped with a secondary containment feature that at a minimum has the following:
  - (1) An impervious floor or bottom covering the entire storage area; and
  - (2) Dikes, berms or walls capable of containing a spill or release; and
  - (3) A capacity equivalent to a minimum of 100% of the volume of used oil stored at the facility; and
  - (4) The entire system shall be impervious to used oil to prevent a release; or
  - (5) An equivalent containment system may be substituted if prior approval is obtained from the Director.
- d. Storage in Underground Storage Tanks (USTs): Used oil burners that store used oil in USTs shall do so in accordance with the Regulations for Underground Storage Facilities Used For Petroleum Products and Hazardous Materials.
- e. Exterior Storage: Used oil burners that store used oil in containers and/or aboveground tanks outdoors shall either construct the storage area with a means to prevent the accumulation of stormwater in the

secondary containment device; or obtain a Stormwater Permit from the Department's Office of Water Resources prior to the construction of the storage area.

- f. Labeling: Containers and aboveground storage tanks used to store used oil on-site shall be clearly and permanently marked with the words "Used Oil". Fill pipes for underground storage tanks used to store used oil at a used oil burner's facility shall be clearly marked with the words "Used Oil". Markings for USTs shall comply with the requirements of the Rules and Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials.
- g. Response to releases: Upon detection of a release of used oil a used oil burner shall perform the following:
  - (1) Comply with the requirements of the Oil Pollution Control Regulations, the Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials and all other applicable Federal, State and Municipal Statutes, Rules and
  - (2) Regulations relating to the release and handling of oil/pollutants;
  - (3) Take immediate steps to stop the release;
  - (4) Contains all of the released used oil;
  - (5) Clean up and properly manage the used oil and any other materials that were contaminated with used oil;
  - (6) Repair or replace any leaking or damaged storage units; and
  - (7) Immediately notify the Department's Emergency Response Program (at 222-1360 or after hours at 222-3070), the local authorities and, if required by 49 C.F.R. § 171.15, notify the National Response Center (800-424-8802).
- h. Tracking: Used oil burners who receive used oil from off-site shall keep a record of each shipment of used oil for a period of at least three years. This record shall contain at least the following information:
  - (1) Name, address and EPA Identification number, if applicable, of the used oil generator or used oil processor/re-refiner that generated the used oil;

- (2) The name, address and EPA Identification number of the used oil transporter who delivered the used oil;
  - (3) Quantity of used oil received;
  - (4) Date of shipment or delivery;
  - (5) A cross-reference to the record of the used oil analysis or other information used to make the determination that the used oil meets the definition of specification used oil prior to burning.
8. Management of Residues: Used oil burners who generate residues from the storage or burning of used oil shall manage the residues in compliance with this Part.

#### **1.16.4 Used Oil Generator Standards:**

- A. Used oil generators are subject to the requirements of this Part. Household used oil generators are not subject to the requirements of this rule. Once household used oil is accepted by a used oil collection center the used oil is subject to regulation under this Part. The owner or operator of vessels and the person removing or accepting used oil from the vessel are co-generators of the used oil and both are responsible for managing the used oil in compliance with this Part once the used oil is transported ashore. The co-generators may decide which of them will fulfill the requirements of this Part. Used oil generators shall store used oil on-site in containers, aboveground storage tanks or in underground storage tanks only provided that they comply with the following requirements:
1. Container Storage: Used oil generators that store used oil in containers shall do so in accordance with the following requirements:
    - a. The amount of used oil stored on-site by a used oil generator shall not exceed 1,320 gallons (equivalent to twenty-four 55 gallon drums) unless the used oil generator:
      - (1) Prepares a contingency plan that satisfies all of the requirements of § 1.7 of this Part and maintains the plan on-site for use in case of a fire spill or emergency;
      - (2) Does not store the excess used oil (amount greater than 1,320 gallons) on-site for greater than 180 days; and
      - (3) Marks the containers holding the excess used oil with the initial date upon which the excess used oil began accumulating.

- b. Containers holding used oil shall be in good condition and free of rusting or structural defects that threaten the integrity of the container. In the event that a container deteriorates and begins to leak the generator shall transfer the used oil to a container that is in good condition;
    - c. Containers holding used oil shall be clearly marked with the words "Used Oil"; and
    - d. Containers of used oil that are stored outside the facility shall be placed on an impervious surface under a roofed structure and protected from precipitation and flooding.
    - e. Containers shall be kept closed except when adding or removing used oil.
2. Storage in Aboveground Storage Tanks (ASTs): Generators that store used oil in ASTs shall do so in accordance with the following requirements:
  - a. ASTs used by used oil generators to store used oil shall be registered with the Department. AST's shall follow the management standards outlined in the Department's Oil Pollution Control Regulations;
  - b. Aboveground storage tanks holding used oil shall be permanently marked with the words "Used Oil"; and
  - c. Aboveground storage tanks holding used oil shall be kept closed at all times, unless adding or removing used oil.
3. Storage in Underground Storage Tanks (USTs): Used oil generators that store used oil in USTs shall do so in accordance with the following requirements:
  - a. Underground storage tanks used for storing used oil shall be registered with the Department and managed in accordance with the Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials; and
  - b. Underground storage tanks holding used oil shall have the fill pipe marked or labeled to clearly indicate used oil storage.
4. Response to Used Oil Releases: Used oil generators shall maintain an adequate volume of spill control equipment on-site to contain and clean up the entire volume of used oil stored on-site and upon detection of a release of used oil shall:
  - a. Take immediate steps to stop and control the release;

- b. Clean up, contain and properly manage the used oil and other resultant wastes;
  - c. Repair or replace all damaged or leaking containers or tanks prior to returning them to service;
  - d. Notify the Department's Emergency Response Program (at 222-1360 or after hours at 222-3070); the local authorities and, if required by 49 C.F.R. § 171.15, notify the National Response Center (800-424-8802); and
  - e. Comply with the requirements of the Oil Pollution Control Regulations, Regulations for Underground Storage Facilities Used For Petroleum Products and Hazardous Materials and all other applicable Federal, State and Municipal Rules and Regulations relating to the release and handling of spilled or released used oil.
5. Processing of Used Oil: Except as provided in §§ 1.16.4(A)(5)(a) through (e) of this Part below; used oil generators that process or re-refine used oil are subject to the requirements of § 1.16.8(H) of the Part. Used oil generators may conduct the following activities provided that the used oil is not sent off-site for burning as specification used oil:
  - a. Filtering, cleaning or otherwise reconditioning used oil before returning it for reuse by the generator;
  - b. Separating used oil from wastewater generated on-site to make the wastewater suitable for discharge in accordance with a permit issued by a local Publicly Owned Treatment Works (POTWs), the
  - c. Department's Water Quality Regulations and Section 307 or 402 of the Clean Water Act;
  - d. Using oil mist collectors to remove used oil from the in-plant air to make the air in the plant suitable for continued recirculation;
  - e. Draining or otherwise removing used oil from materials containing or otherwise contaminated with used oil in order to remove the oil to the extent practicable pursuant to § 1.16(A)(4) of this Part; and
  - f. Filtering, separating or otherwise reconditioning used oil before burning it on-site in a space heater in accordance with § 1.16.4(A)(6) of this Part.
6. Burning of used oil on-site. Used oil generators may burn used oil on-site in space heaters in accordance with the provisions of § 1.16.3 of this Part.

7. Off-site shipments. Except as provided in § 1.16.4(A)(7)(a) and (b) of this Part, used oil generators shall ensure that their used oil is shipped off-site by a used oil transporter who is permitted by the Department in accordance with §§ 1.11(G) and 1.5 of this Part.
- a. Self-transportation: A used oil generator of used oil may transport used oil generated on-site without complying with the transporter requirements contained in § 1.16.7 of this Part, provided that:
- (1) The used oil is transported in a vehicle owned by the used oil generator or a vehicle owned by an employee of the used oil generator;
  - (2) Not more than 55 gallons of used oil is transported at any time;
  - (3) Containers used to transport used oil shall meet USDOT standards and be USDOT approved; and
  - (4) The used oil is transported to an aggregation point as defined in § 1.16.5 of this Part.
- b. Tolling arrangements: Used oil generators may arrange for used oil to be transported by a used oil transporter that does not have an EPA identification number if the used oil is reclaimed under a contractual agreement pursuant to which reclaimed oil is returned by the used oil processor/re-refiner to the used oil generator for use as a lubricant, cutting oil or coolant. The contract (known as a “tolling arrangement”) shall indicate the following:
- (1) The type of used oil and the frequency of shipments;
  - (2) That the vehicle used to transport the used oil to the processing/re-refining facility and to deliver the recycled used oil back to the used oil generator is owned and operated by the used oil processor/re-refiner; and
  - (3) That the reclaimed oil will be returned to the used oil generator.
- c. Tracking: Used oil generators shall keep a record of each used oil shipment sent off-site for processing or burning for a period of at least three years that shall include the following:
- (1) The name and address of the used oil generator, used oil transporter or used oil processor/re-refiner who provided the used oil for transport;

- (2) The EPA Identification Number (if applicable) of the used oil generator, used oil transporter or used oil processor/re-refiner who provided the used oil for transport;
  - (3) The quantity of used oil shipped;
  - (4) The date the used oil was received by the used oil transporter or used oil processor/re-refiner; and
  - (5) The name and signature of an agent of the used oil generator, used oil transporter or used oil processor/re-refiner that provided the used oil for transport.
8. Service Companies: Companies that service oil-fired furnaces that heat buildings may self-transport quantities of used oil not greater than five (5) gallons generated by their service activity back to their facility in accordance with the following requirements:
  - a. The used oil shall be placed in a closed container;
  - b. The container shall be marked with the words "Used Oil";
  - c. The vehicle used for the transportation shall have adequate spill control material in the vehicle at all times;
  - d. The used oil shall be transferred to an appropriate storage container or tank upon return to the company's place of business;
  - e. The company shall be considered to be the generator of the used oil and shall manage the used oil in accordance with all of the applicable requirements of § 1.16 of this Part.
9. The rebuttable presumption contained in § 1.16.1(A)(2) of this Part applies to used oil generated and managed by used oil generators.

#### **1.16.5 Used Oil Aggregation Points:**

- A. Applicability. This rule applies to owners or operators of all used oil aggregation points as defined in § 1.5 of this Part.
- B. Used Oil Aggregation Point requirements. Used oil generators may consolidate used oil from multiple facilities that are owned and operated by their company at used oil aggregation points for storage purposes prior to shipping off-site or burning on-site as defined under § 1.16.3 of this Part provided that they comply with all of the used oil generator requirements contained in § 1.16.4 of this Part.

- C. Transportation. Owners and operators of used oil aggregation points may transport used oil without a permit from the point of generation to used oil aggregation points in shipments of not more than 55 gallons at one time in accordance with the requirements of § 1.16.4(A)(7)(a) of this Part.

#### **1.16.6 Used Oil Collection Centers:**

- A. Applicability. This rule applies to owners or operators of used oil collection centers as defined in § 1.5 of this Part.
- B. Persons who own or operate a used oil collection center shall obtain an EPA Identification Number and notify the Department of such activity and by submitting a completed Notification [as per § 1.7.4 of this Part](#).
- C. Used Oil Collection Center requirements. Owners and operators of used oil collection centers shall comply with all of the used oil generator requirements contained in § 1.11(D) of this Part.
- D. Receiving Used Oil: Used oil collection centers may accept household used oil only. Used oil collection centers that receive used oil that does not meet the definition of a household used oil are considered used oil processor/re-refining facilities and are subject to the requirements of § 1.11(H) of this Part.

#### **1.16.7 Used Oil Transporter and Temporary Storage Facility Standards:**

- A. Applicability: This Rule shall apply to used oil transporters as defined in § 1.5 of this Part. Used oil transporters who import or export used oil are subject to this rule while the used oil is within the State of Rhode Island.
- B. Exceptions: The following persons and activities are not subject to the requirements of this rule:
  - 1. On-site transportation of used oil by a used oil generator or the owner or operator of the facility;
  - 2. Used oil generators who transport their used oil to aggregation points that are owned and operated by the used oil generator in shipments of not more than 55 gallons in accordance with the requirements of § 1.16.4(A)(7)(a) of this Part;
  - 3. Transportation of household used oil to a used oil collection center by a household used oil generator.
- C. Transporter Restriction:
  - 1. Used oil transporters may not consolidate or aggregate loads of used oil at their facility unless they comply with the requirements of § 1.16.7(H) of this

Part and may not process or re-refine used oil unless they comply with § 1.16.8 of this Part;

2. Transportation units used to transport hazardous waste shall be properly decontaminated in accordance with § 1.8.10 of this Part before transporting used oil; and
3. Used oil transporters that direct a shipment of specification used oil to a used oil burner or first claim that the used oil meets the requirements for specification used oil shall be subject to the requirements of § 1.16.9 of this Part.

D. Permit Requirements. Transporters of used oil shall:

1. Obtain an EPA Identification Number by submitting to the Department a completed Notification of Regulated Waste Activity form ([per § 1.7.4 of this Part](#)); and
2. Obtain a permit to transport used oil in accordance with the requirements of the §§ 1.8.2 and 1.8.3 of this Part unless the transporter already poses a valid permit issued by the Department for the transportation of hazardous waste. A separate permit to transport used oil is not required if the transporter already has a permit issued by the DEM to transport hazardous waste.

E. Liability Insurance: Used oil transporters shall maintain liability insurance, including the hazardous material rider (MCS 90) as specified in 49 C.F.R. § 387.7(d), sufficient to provide coverage of \$1,000,000.00 (one million dollars) per incident.

F. Used Oil Analysis: Prior to transporting used oil to a used oil burner or a used oil processor/re-refiner facility or storing used oil at a used oil temporary storage facility, the used oil transporter shall determine if the used oil has a total halogen content of greater than 1,000 ppm. This determination is made by testing the used oil or applying product knowledge of the materials in use and the process that generated the used oil. In the event that the used oil has a total halogen content greater than or equal to 1,000 ppm, the used oil will be presumed to have been mixed with a halogenated hazardous waste. In accordance with § 1.16.1(A)(2) of this Part the transporter may rebut this presumption. The rebuttable presumption does not apply to metal working oils/fluids containing used oils contaminated with chlorinated paraffins and chlorofluorocarbons that are managed in accordance with § 1.16.1(A)(2) of this Part. The used oil transporter shall maintain records of all analytical testing or determinations made based on product knowledge for a period of at least three (3) years. The used oil transporter may use analytical data or written documentation demonstrating product knowledge obtained from the used oil generator when making a determination regarding the status of a shipment of used oil.

G. Used Oil Transportation:

1. A used oil transporter shall deliver shipments of used oil to only the following:
  - a. Another used oil transporter, provided that the transfer occurs at an approved used oil temporary storage or permitted hazardous waste treatment, storage and disposal facility and the other used oil transporter has obtained a permit from the Department and an EPA Identification Number;
  - b. If handling household used oil, a used oil collection facility that has obtained an EPA Identification Number;
  - c. A used oil processing/re-refining facility that has obtained an EPA Identification Number; or
  - d. A used oil burner's facility that has obtained an EPA Identification Number.
2. Used Oil Spills and Releases: In the event of a spill or release of used oil the transporter shall:
  - a. Take immediate steps to stop and contain the release;
  - b. Immediately notify the Department's Emergency Response Program (at 222-1360 or after hours at 222-3070), the proper local authorities, and if required by 49 C.F.R. § 171.15 and/or 49 C.F.R. § 403.12(f), notify the National Response Center (800-424-8802), and for transporting over water give notice as required by 33 C.F.R. § 153.203;
  - c. Provide a written report to the Department within ten (10) days of the incident detailing the steps that were taken to remediate the release and provide a written report to the USDOT, as required by 49 C.F.R. § 171.16; and
  - d. Clean up and properly dispose of any used oil that was discharged and any materials contaminated with the used oil.
  - e. In emergency situations, removal of used oil and materials contaminated with used oil may be conducted by a used oil transporter that does not have an EPA Identification Number, if so authorized by the Department.
3. Tracking:

- a. Used oil transporters shall keep a record of each used oil shipment accepted for transport for a period of at least three years that shall include the following:
  - (1) The name and address of the used oil generator, used oil transporter or used oil processor/re-refiner who provided the used oil for transport;
  - (2) The EPA Identification Number (if applicable) of the used oil generator, used oil transporter or used oil processor/re-refiner who provided the used oil for transport;
  - (3) The quantity of used oil accepted;
  - (4) The date of acceptance; and
  - (5) The name and signature of an agent of the used oil generator, used oil transporter or used oil re-refiner who provided the used oil for transport.
  
- b. Deliveries: Used oil transporters shall keep a record of each shipment of used oil that is delivered to another used oil transporter, used oil processor/re-refiner, or used oil burner that shall include:
  - (1) The name and address of the receiving facility or used oil transporter;
  - (2) The EPA Identification number of the receiving facility or used oil transporter;
  - (3) The quantity of used oil delivered;
  - (4) The date of the delivery;
  - (5) The name and signature, dated upon receipt of the used oil, of an agent of the receiving facility or used oil transporter.
  - (6) All records generated by the transportation of used oil shall be retained by the transporter for a period of at least three years.

H. Used Oil Temporary Storage Facilities: Used oil transporters may store used oil at their facility for not more than thirty-five days prior to transporting it to a regulated used oil facility provided that they first obtain written authorization from the Director. This Part shall not apply to used oil stored on a permitted transportation unit for less than seventy-two hours prior to off-site transportation, provided that the used oil is not transferred off the transportation unit while in storage at the facility.

1. **Applicability:** This Rule applies to used oil temporary storage facilities where shipments of used oil are stored on-site for less than 35 days. Used oil temporary storage facilities that store used oil for more than 35 days are subject to the requirements of § 1.16.8 of this Part.
2. **Authorization Requirements:** All persons who shall construct, substantially alter, operate or own a used oil temporary storage facility shall first submit a complete application to the Office of Waste Management and obtain a Letter of Authorization from the Director prior to conducting any such activities on-site.
3. **Closure Plan and Financial Requirements:** Owners or operators of used oil temporary storage facilities shall develop a closure plan, complete with a cost estimate for closing down their facility, and submit this plan along with an application for Authorization as defined in § 1.16.7(H)(5) of this Part. Owners or operators shall document their financial ability to complete the closure plan equivalent to the cost estimate contained within the closure plan. If the owner or operator fails to satisfy these requirements the Director may deny their Application for Authorization.
4. **Operating a used oil temporary storage facility without a Letter of Authorization or a renewal of authorization is prohibited.**
5. **Application Specifications:** All applications for Authorization shall contain at least the following information:
  - a. The location of the facility, including the Assessor's Plat and Lot numbers;
  - b. The name and address of the property owner and operator of the Facility;
  - c. A complete description of the used oil transfer and storage operations at the facility;
  - d. A site plan depicting the Facility's floor plan, yard layout, drainage system and storage location(s).
  - e. A complete list of all pollution control and safety equipment to be utilized or maintained on-site.
  - f. A copy of the applicant's liability insurance policy for the Facility; and
  - g. The facility's closure cost estimate and financial assurance mechanism.

6. Application Fees: An application fee of six thousand dollars (\$6,000.00) shall be submitted with each new application for a Letter of Authorization to operate a used oil temporary storage facility.
7. Authorization Period: Each Letter of Authorization shall be valid for a period of not more than three (3) years from the date of issuance.
8. Expiration of Authorization/Renewal of Authorization: At least ninety (90) days before the end of the authorization period specified above, the owner/operator may submit a renewal application in accordance with the requirements of this rule in order to renew its Authorization to operate a used oil temporary storage facility. This application shall include all of the information required in § 1.16.7(H) of this Part and a renewal application review fee of three thousand (\$3,000.00) dollars.
9. Posting: Any Letter of Authorization issued hereunder shall be maintained on the Facility and posted in a conspicuous location.
10. Change of Ownership or Location: Changes in ownership, administration or location of used oil temporary storage facilities are subject to the following requirements:
  - a. The Director shall be notified in writing thirty days prior to a change in ownership of the facility or legal entity operating the facility or location or discontinuance of services;
  - b. A Letter of Authorization shall immediately become void and shall be returned to the Director upon change in location of any facility;
  - c. A Letter of Authorization is voidable at the sole discretion of the Department whenever there is any sale of the facility or change in ownership of the property of the legal entity operating the facility. A new entity, prior to the commencing of operation of the facility, shall satisfy the Director of its ability to safely operate the facility, as well as its financial ability to operate and close said facility. This demonstration to the Director by the new entity shall include a proposed date for the transfer of the Letter of Authorization, liability insurance coverage and any other information that the Director may request. After a review of this information, the Director shall either approve or deny the transfer of the Letter of Authorization;
  - d. The original operator shall remain fully liable for the operation of the facility under the terms of the Authorization Letter and applicable regulations until the Director transfers the Authorization to the new owner/operator.

11. The Director may revoke or suspend a Letter of Authorization in the event that a determination is made by the Director that the facility is not being operated in a manner that is consistent with these Regulations or the Letter of Authorization.
12. Used oil temporary storage facilities shall comply with the applicable sections of the used oil generator requirements contained in §§ 1.16.4(A)(1), (2), (3) and (4) of this Part.
13. Storage Units: Owners or operators of used oil temporary storage facilities may not store used oil in units other than tanks and containers.
14. Condition of Storage Units: Containers and aboveground storage tanks used to store used oil at used oil temporary storage facilities shall be:
  - a. In good condition and free of severe rusting, corrosion or structural defects. In the event that a container deteriorates and begins to leak the generator shall transfer the used oil to a container that is in good condition;
  - b. Liquid tight with no visible leaks;
  - c. Kept closed except when adding or removing used oil.
15. Secondary Containment for Containers and Aboveground Storage Tanks (ASTs): Containers and ASTs used to store used oil shall be equipped with a secondary containment feature that at a minimum has the following:
  - a. An impervious floor or bottom covering the entire storage area; and
  - b. Dikes, berms or walls capable of containing a spill or release; and
  - c. A capacity equivalent to a minimum of 100% of the volume of used oil stored in the containers at the facility; and
  - d. The entire system shall be impervious to used oil to prevent a release; or
  - e. An equivalent containment system may be substituted if prior approval is obtained from the Director.
16. Exterior Storage: Owners and operators of used oil temporary storage facilities that store used oil in containers and/or aboveground tanks outdoors shall either construct the storage area with a means to prevent the accumulation of stormwater in the secondary containment device; or obtain a Stormwater Permit from the Department's Office of Water Resources prior to the construction of the storage area.

17. Labeling: Containers and aboveground storage tanks used to store used oil at used oil temporary storage facilities shall be clearly and permanently marked with the words "Used Oil". Fill pipes for underground storage tanks used to store used oil at used oil temporary storage facilities shall be clearly marked with the words "Used Oil". Markings for USTs shall comply with the requirements of the Rules and Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials.
18. Response to releases: Upon detection of a release of used oil, the owner or operator of a used oil temporary storage facility shall perform the following:
  - a. Take immediate steps to stop the release;
  - b. Contains all of the released used oil;
  - c. Clean up and properly manage the used oil and any other materials that were contaminated with used oil;
  - d. Repair or replace any leaking or damaged storage units prior to returning them to service; and
  - e. Immediately notify the Department's Emergency Response Program (at 222-1360 or after hours at 222-3070), the local authorities and, if required by 49 C.F.R. § 171.15, notify the National Response Center (800-424-8802).
  - f. Comply as applicable with the requirements of the Oil Pollution Control Regulations, Rules and Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials and all other applicable Federal, State and Municipal Rules and Regulations relating to the release and handling of spilled or released used oil.
19. Tracking: Owners or operators of temporary storage facilities shall keep a written log of each used oil shipment received for temporary storage at the facility and of each off-site shipment of used oil from the facility for a period of at least three years. The owner or operator shall also reconcile the incoming and outgoing shipments of used oil every thirty-five (35) days on the written log in order to demonstrate that used oil is not being stored for greater than the allowed thirty five (35) day time period. The written logs shall be provided to the Department upon request.
  - I. Management of residues. Used oil transporters and temporary storage facilities who generate residues from the storage or transportation of used oil shall manage them in compliance with § 1.16.1(A)(6) of this Part.

#### **1.16.8 Used Oil Processor and Re-Refiner Standards**

- A. **Applicability:** The requirements of this Part apply to owners and operators of facilities that process used oil as defined in § 1.5 of this Part.
1. The requirements of § 1.16.8 of this Part does not apply to:
    - a. Incidental processing that occurs during transport (e.g., settling and water separation);
    - b. Used oil removed from electrical transformers or turbines and filtered by the used oil transporter prior to being returned to its original use;
    - c. Used oil generators that conduct incidental processing in accordance with § 1.16.4(A)(5) of this Part; or
    - d. Used oil burners that conduct incidental processing operations during the normal course of used oil management prior to burning or that aggregate off-specification used oil with virgin or specification used oil for the purposes of burning.
  2. Used oil processors/re-refiners are subject to other applicable Rules as follows:
    - a. Processors/re-refiners who generate used oil shall comply with the requirements of § 1.16.4 of this Part;
    - b. Processors/re-refiners who transport used oil shall also comply with the requirements of § 1.16.7 of this Part;
    - c. Processors/re-refiners who burn used oil for energy recovery shall also comply with the requirements of § 1.16.3 of this Part;
    - d. Processors/re-refiners who direct a shipment of used oil to a used oil burner or first make the claim that used oil meets the requirements of specification used oil shall also comply with the requirements of § 1.16.9 of this Part.
- B. **Permit Requirement:** All persons who shall construct, substantially alter, operate or own a used oil processing or re-refining facility shall first obtain a permit from the Director prior to conducting any such activities. Operating a used oil processor/re-refiner facility without a permit is prohibited.
- C. **Liability Insurance:** Owners or operators of used oil processor/re-refiner facilities shall maintain liability insurance sufficient to provide coverage of \$1,000,000.00 (one million dollars) per incident.
- D. **Closure Plan and Financial Requirements:** Owners or operators of used oil processor/re-refiner facilities shall submit to the Department's Office of Waste

Management a closure plan, complete with a cost estimate for closure and cleanup of the facility, along with an application for a permit as set forth in § 1.16.8 of this Part. Owners or operators shall also include a financial assurance mechanism demonstrating the financial ability of the applicant to fund the closure cost estimate contained in the closure plan. If the owner or operator fails to satisfy each of these requirements the Director may deny their application for a permit.

- E. Application Specifications: All applications for a permit shall specify the following:
1. The location of the facility including the Assessor's Plat and Lot numbers;
  2. The name and address of the owner and operator of the facility;
  3. A complete description of the operations at the facility subject to the permit with specific statements of operational limitations and/or capacity limitations;
  4. A complete description of the types of used oil that will be stored onsite and the processing and or recycling activities that will be conducted on-site;
  5. A statement detailing any reporting or monitoring requirements that the owner/operator will conduct to ensure that the facility will be operated and maintained in compliance with these Regulations;
  6. A site plan depicting the Facility's floor plan, yard layout, drainage system and storage location(s);
  7. A complete list of all pollution control and safety equipment to be utilized or maintained on-site; and
  8. A complete description of the applicant's financial ability to safely operate, and maintain the Facility.
- F. Fees: The application fee for a permit shall be submitted with the application and shall be ten thousand dollars (\$10,000.00) for the issuance of a new permit and five thousand dollars (\$5,000.00) for the renewal of a permit.
- G. Permit Posting: Any permit issued hereunder shall be posted in a conspicuous location, maintained on-site at the subject facility and be made available for review by the Department personnel upon request.
- H. Issuance, Denial, Revocation or Suspension of Permits: The Director is authorized by R.I. Gen. Laws § 23-19.1-10 to issue, deny, revoke, or suspend a permit in accordance with these Rules and Regulations. The DEM shall comply with the procedures set forth in § 1.9 of this Part for processing these applications and shall substitute the words "used oil processing/re-refining facility" for the words "hazardous waste management facility" as it is referred to in § 1.9 of this Part.

- I. Application Requirements: Applications submitted to the Department for the construction or modification of a facility that processes or re-refines used oil shall contain all of the applicable elements required in § 1.9 of this Part.
- J. Duration and Renewal of Permits: Permits for used oil processing or re-refining facilities shall be issued for a period not to exceed five (5) years and may be extended or renewed by the Director for a period of not more than five (5) years. A new permit application is required at the end of the ten-year period and shall be submitted at least one hundred eighty (180) days prior to the expiration of the existing permit. Permit renewal applications will be processed in accordance with §§ 1.16.8(H) and (I) of this Part.
- K. Notification: Used oil processors and re-refiners shall also notify the Department of such activity and obtain an EPA Identification Number as per § 1.4.4(A) of this [Part](#).
- L. General Facility Standards: Owners and operators of facilities that process or re-refine used oil shall comply with the following requirements:
  - 1. Facilities shall be maintained and operated to minimize the possibility of a fire, explosion or any accidental release of used oil to air, soil, groundwater or surface water that could threaten human health or the environment.
  - 2. All facilities shall be equipped with the following:
    - a. An internal communication or alarm system capable of providing immediate emergency instruction to facility personnel;
    - b. Devices, such as a telephones or other devices located in appropriate locations throughout the facility capable of summoning emergency assistance from local fire departments, police departments or the State Emergency Response team;
    - c. Portable fire extinguishers or fire control equipment, spill control equipment and decontamination equipment designed to control and contain fires, spills or releases involving oil and related materials; and
    - d. Fire hoses and water of adequate volume and pressure or other fire suppressant systems such as foam producing equipment or automated sprinkler systems to provide for immediate response to fires in the facility and to meet all local and State building code requirements.
- M. Testing and maintenance of all facility equipment, including but not limited to, communication systems, alarm systems, fire control equipment, spill control equipment and decontamination equipment shall be conducted at least on an annual basis to ensure its proper operation at the time of an emergency.

- N. Personnel working in all areas of the facility where used oil is being poured, mixed, spread or otherwise handled shall have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice communication with another employee. In the event that only one employee is working during a particular shift, the employee shall have immediate access to an alarm or emergency communication device that is capable of summoning emergency responders and any other appropriate authority required to respond to an incident at the facility.
- O. The owner or operator of a used oil processing/re-refining facility shall provide no less than three (3) feet of aisle space within all storage areas at the facility to allow for the unobstructed movement of emergency response and fire department personnel and equipment.
- P. The owner or operator of a used oil processing/re-refining facility shall make the following arrangements with local and State authorities as appropriate for the amount and type of used oil being managed on-site:
1. Arrangements to familiarize the police, fire departments and emergency response teams with the layout of the facility, properties of used oil handled at the facility and associated hazards, places where used oil is processed or stored and evacuation routes to be used by facility personnel.
  2. Where more than one fire or police department or other related authority might respond, a designation of a primary emergency authority should be made and an agreement reached with said authorities to provide support to the primary emergency authority.
  3. Agreements with State Emergency Responders, emergency response contractors and any other appropriate emergency equipment suppliers.
  4. Arrangements with local hospitals to familiarize them with the properties of the used oil managed on-site and types of injuries or illnesses that could result from fires, explosions, or releases at the facility.
  5. If state or local officials decline to acknowledge or make such arrangements the used oil processor/re-refiner shall document the refusal in its operating record.
- Q. Contingency Plan: Owners and operators of used oil processing/re-refining facilities shall comply with the following requirements:
1. Each owner or operator shall prepare and maintain a contingency plan for the facility that is designed to minimize hazards to human health and the environment from fires, explosions or any unplanned or sudden releases of used oil to air, soil or surface water. The provisions of this plan shall be carried out immediately in the event of a spill, release or fire.

2. The contingency plan shall describe the actions facility personnel will undertake to comply with this rule in response to a fire, explosion, spill or release of used oil at the facility and include the following:
  - a. In the event that the facility has an existing Spill Prevention Control and Countermeasures Plan or hazardous waste contingency plan, the existing plan shall be amended to include the used oil management requirements of this rule;
  - b. The plan shall describe the arrangements made with local and state authorities in accordance with § 1.16.8(P) of this Part;
  - c. The plan shall list names, addresses and phone numbers (office and home) of all persons qualified to act as an emergency coordinator for the facility, the list shall identify a primary emergency coordinator and this list shall be kept current. Where more than one person is listed, those other than the primary emergency coordinator shall be listed in the order they will assume this role as alternates;
  - d. The plan shall list all emergency equipment located at the facility including, but not limited to, fire control equipment/systems, spill control equipment, communication/alarm systems and decontamination equipment. The list shall be kept current and the plan shall include a sketch depicting the location and type of equipment;
  - e. The plan shall include an evacuation plan for facility personnel and shall include a sketch of all evacuation routes and alternate evacuation routes located at the facility. The plan shall also describe the signal to be used to alert facility personnel to evacuate the facility.
3. The owner or operator of the facility shall maintain on-site a copy of the contingency plan and all revisions to the plan and shall submit copies of the current plan to local fire and police departments, hospitals and State and local emergency response teams.
4. The contingency plan shall be periodically reviewed and amended as necessary to reflect the current facility conditions (e.g., facility layout or equipment) including personnel changes, changes to the list of emergency coordinators and when affected by changes to the rules or when the plan fails in an emergency.
5. During all operating hours and non-operating hours there shall be one employee on-site, or on call, that is a designated emergency response coordinator. This emergency response coordinator shall be thoroughly familiar with the facility's contingency plan, all operations conducted at the

facility, the location and characteristics of all used oil handled at the facility, the location of the required facility records and the facility layout. In addition, the coordinator shall have the authority to commit the resources necessary to carry out the contingency plan in the event of an emergency.

6. Whenever there is an imminent or actual emergency situation, the emergency coordinator present on-site shall immediately:
  - a. Activate the internal facility alarms or communication systems to alert the facility's personnel;
  - b. Notify appropriate State or local agencies with designated response roles;
  - c. Identify the character, exact source, amount and aerial extent of the release materials;
  - d. Assess the hazards to human health and the environment that may result from any release, fire or explosion. This assessment shall include the immediate and potential effects of the incident to impact humans and the local environment and the potential for additional incidents like explosions;
  - e. Notify the Department Emergency Response Program and the National Response Center (using the 24-hour toll free number 800424-8802) and report his/her findings. This report shall include:
    - (1) Name and telephone number of the reporter;
    - (2) Name and address of the facility;
    - (3) Time and type of the incident;
    - (4) Name and quantity of the materials involved;
    - (5) Extent of the injuries resulting, if any; and
    - (6) The possible hazards to human health and the environment.
  - f. During the emergency, the emergency coordinator shall take all reasonable measures necessary to ensure that fires, explosions and releases do not occur, reoccur or spread to other used oil or hazardous waste stored at the facility. These measures shall include, where applicable, stopping processes and operation, containing and collecting released materials and moving or isolating containers.

- g. In the event that facility operations shall be shut down due to a fire, explosion or release the emergency response coordinator shall monitor the equipment for a build-up of pressure, leaks, gas generation, or related failure where appropriate.
- h. Immediately after the incident the emergency response coordinator shall provide for clean-up and recycling or disposal of all used oil, waste or any other contaminated materials generated during the incident and clean up. The coordinator shall ensure that all affected areas of the facility have been adequately cleaned and all used oil and waste removed before allowing facility personnel back into the affected areas, and that any emergency equipment used during the incident is cleaned and fit for intended use prior to resuming operations.
- i. The facility owner or operator shall notify the Director and any other appropriate State and local authority that all of the conditions in paragraph (8) above have been satisfied prior to resuming operations in the affected area.
- j. The owner or operator shall note in the operating record the time, date and details of the incident that required the implementation of the facility's contingency plan. Within 15 days of the incident he/she shall submit a written report of the incident to the Director that includes the following:
  - (1) Name, address and telephone number of the owner or operator;
  - (2) Name, address and telephone number of the facility;
  - (3) Date, time and type of incident that occurred;
  - (4) Names and quantities of the materials involved;
  - (5) The extent of any injuries;
  - (6) Assessment of actual or potential hazards to human health or the environment resulting; and
  - (7) Estimated quantity and disposition of the materials involved.

R. Used Oil Analysis: Prior to processing or otherwise managing used oil at a used oil processing/re-refining facility, the owner or operator shall determine the total halogen content of the used oil by having the used oil tested by an analytical laboratory or by applying product knowledge of the halogen content of the materials used and the process that generated the used oil. In the event that the

used oil has a total halogen content greater than or equal to 1,000 ppm, the used oil will be presumed to have been mixed with a hazardous waste. The owner or operator of the facility may rebut this presumption in accordance with the procedures contained in § 1.16.1(A)(2) of this Part. The owner or operator of a processing/re-refining facility shall maintain records of all analytical testing or determinations made based on product knowledge for a period of at least three (3) years.

- S. Used Oil Analysis Plan: Owners or operators of used oil processing/rerefining facilities shall develop and follow a written set of analytical procedures to ensure compliance with § 1.16.8(R) of this Part. The owner operator shall keep the analysis plan current, maintain it at the facility and the plan shall include the following:
1. A statement indicating whether the determination of total halogen content of the used oil will be made based on knowledge of halogen content or sample analyses.
  2. If the owner or operator uses sample analyses for the determination of total halogen content, the plan shall indicate the following:
    - a. The analytical method used will be EPA Method D808-95 or an equivalent method approved by the EPA and contained in EPA Publication SW-846, as incorporated by reference in 40 C.F.R. § 260.11 of this Part;
    - b. The sampling method used to obtain the representative sample, acceptable sampling methods include those listed in 40 C.F.R. § 261 Appendix I or an equivalent method approved by the Director;
    - c. The frequency of the sampling to be performed and an indication as to whether the analysis will be performed on-site or off-site.
  3. If the owner or operator determines the total halogen content of the used oil based only on knowledge of the halogen content, the plan shall indicate the type and source of the information used in making this determination.
  4. If the total halogen content is determined to be greater than 1,000 ppm, the plan shall indicate the analytical test methods or information used to rebut the presumption of mixing hazardous waste and used oil.
  5. If specification used oil is received for burning on-site, the plan shall describe the analytical and sampling methods used to determine that the used oil meets the criteria established in § 1.16.3 of this Part and include the information regarding the total halogen content required in §§ 1.16.8(S)(1) through (3) of this Part. The plan shall also indicate whether sampling and analysis will occur before or after processing/re-refining.

T. Management of Used Oil: Used oil processor/re-refiners as defined in § 1.5 of this Part that store used oil on-site shall comply with the applicable sections of the Regulations for Underground Storage Facilities Used For Petroleum Products and Hazardous Materials, the Oil Pollution Control Regulations and the following requirements:

1. Storage Units: Owners or operators of used oil processing/re-refining facilities may not store used oil in units other than tanks and containers as defined in § 1.5 of this Part.
2. Condition of Storage Units: Containers and aboveground storage tanks used to store used oil at processing/re-refining facilities shall be:
  - a. In good condition and free of severe rusting, corrosion or structural defects. In the event that a container deteriorates and begins to leak the generator shall transfer the used oil to a container that is in good condition;
  - b. Liquid tight with no visible leaks;
  - c. Kept closed except when adding or removing used oil.
3. Secondary Containment for Containers and Above Ground Tanks (ASTs): Containers and aboveground tanks used to store used oil shall be equipped with a secondary containment feature that at a minimum has the following:
  - a. A floor or bottom that is impervious to used oil covering the entire area; and
  - b. Dikes, berms or retaining walls capable of containing a spill or release of used oil; and
  - c. A capacity equivalent to 100% of the volume of used oil stored in the containers at the facility; and
  - d. The entire system shall be impervious to used oil to prevent a release; or
  - e. An equivalent containment system that is approved by the Director.
4. Exterior Storage: Used oil processor/re-refiners that store used oil in containers and/or aboveground tanks outdoors shall either construct the storage area with a means to prevent the accumulation of stormwater in the secondary containment device; or obtain a Stormwater Permit from the Department's Office of Water Resources prior to the construction of the storage area.

5. Labeling: Containers and aboveground storage tanks used to store or process used oil at used oil processing/re-refining facilities shall be clearly and permanently marked with the words "Used Oil". Fill pipes for underground storage tanks used to store used oil at used oil processing/re-refining facilities shall be clearly marked with the words "Used Oil". Markings for USTs shall comply with the requirements of the Rules and Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials.
6. Response to releases: Upon detection of a release of used oil, the owner or operator of a used oil processing/re-refining facility shall perform the following:
  - a. Take immediate steps to stop the release;
  - b. Contains all of the released used oil;
  - c. Clean up and properly manage the used oil and any other materials that were contaminated with used oil;
  - d. Repair or replace any leaking or damaged used oil storage units prior to returning them to service; and
  - e. Immediately notify the Department's Emergency Response Program (at 222-1360 or after hours at 222-3070), the local authorities and if required by 49 C.F.R. § 171.15 notify the National Response Center (800-424-8802).
  - f. Comply with the requirements of the Oil Pollution Control Regulations, Rules and Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials and all other applicable Federal, State and Municipal Rules and Regulations relating to the release and handling of spilled or released used oil.
- U. Closure and Post Closure: The owner or operator shall close the facility in accordance with the closure plan approved by the Director, in compliance with all of the requirements of the Approval Letter issued by the Department and in a manner equivalent to that required by 40 C.F.R. § 264 Subpart G.
- V. Financial Requirements: The owner or operator shall meet the financial requirements contained in 40 C.F.R. § 264 Subpart H as well as the requirements set forth in § 1.9 of this Part. Owner or operators choosing the trust fund option described in 40 C.F.R. § 264.143(a) shall, for new facilities deposit the full amount of the closure cost estimate when the trust fund is established.
- W. Tracking:

1. Used oil processors/re-refiners shall keep a record of each used oil shipment accepted for processing/re-refining that shall include the following:
  - (1) The name, address and EPA Identification Number of the used oil transporter who delivered the used oil to the used oil processor/rerefiner;
  - (2) The name, address and EPA Identification Number (if applicable) of the used oil generator or processor/re-refiner from whom the used oil was sent for processing or re-refining;
  - (3) The quantity of used oil accepted;
  - (4) The date of acceptance;
  - (5) The name and signature of an agent of the processor/re-refiner who received the used oil.
- b. Deliveries: Used oil processors/re-refiners shall keep a record of each shipment of used oil that is shipped off-site to another used oil processor/re-refiner, used oil burning facility that shall include:
  - (1) The name, address and EPA Identification Number of the used oil transporter who delivers the used oil to the used oil processor/rerefiner, or used oil burning facility;
  - (2) The EPA Identification number, name and address of the receiving used oil processor/re-refiner, used oil burning facility;
  - (3) The quantity of used oil delivered;
  - (4) The date the shipment was transported off-site;
  - (5) The name and signature of an agent of the receiving facility or used oil transporter.
- c. The used oil processor/re-refiner shall retain for a period of at least three years all records generated by the acceptance and delivery of used oil to and from its facility.

X. Operating Record and Reporting:

- a. The owner or operator shall keep a written record at the facility that contains the following information as it becomes available and maintained until the closure of the facility:

- (1) Records and results of used oil analyses performed as described in §§ 1.16.8(R)) and (S) of this Part; and
  - (2) Summary reports and details of all incidents that require implementations of the facility's contingency plan.
- b. A used oil processor/re-refiner shall report to the Department on a biennial basis (by March 1 of each even numbered year), the following information regarding the previous year's used oil activities:
- (1) The EPA Identification Number, name and address of the used oil processor/re-refiner;
  - (2) The calendar year covered by the report; and
  - (3) The quantities of used oil accepted for processing/re-refining and the manner in which the used oil is processed/re-refined, including the specific process employed.
- Y. Off-site shipment: Used oil processors/re-refiners who initiate shipments of used oil off-site shall ship the used oil using a Rhode Island permitted used oil transporter who has an EPA Identification Number.
- Z. Management of Residues: Used oil processors/re-refiners who generate residues from the storage, processing or re-refining of used oil shall manage the residues in compliance with § 1.16.1(A)(6) of this Part.

#### **1.16.9 Used Oil Marketer Standards:**

- A. Applicability: The requirements of this rule apply to any person that meets the definition of a used oil marketer contained in § 1.5 of this Part.
- B. This Part does not apply to the following persons:
1. Used oil generators or used oil transporters who direct shipments of used oil to used oil processors/re-refiners that burn used oil incidentally as part of the processing of the used oil.
  2. Persons who direct shipments of used oil to used oil burners that are not the first person to claim the used oil meets the requirements of Table 3 in § 1.16.3 of this Part.
- C. Specification Used Oil: Prior to initiating a shipment of used oil from a used oil generator to a used oil burner the used oil marketer shall comply with the following:
1. Prior to shipping the used oil marketer has the used oil analyzed by a laboratory, or obtains certified copies of analytical test results conducted by

a laboratory from the generator or transporter, to verify that the used oil meets the definition of specification used oil. Used oil marketers may use process and product knowledge to verify that used oil meets the requirements of specification used oil if such knowledge is documented by the used oil generator or used oil transporter.

2. The used oil marketer shall maintain all records of analytical testing or documentation of knowledge of the used oil from the date the shipment occurs for a period of at least three years and shall provide such records to the Department upon request.

D. Any person subject to the requirements of this Part shall also comply with the applicable Parts listed below depending on their activities:

1. § 1.16.3 of this Part, if their activity involves the burning of used oil;
2. § 1.16.4 of this Part; if their activity involves the generation of used oil;
3. § 1.16.5 of this Part; if their activity involves the aggregation of used oil;
4. § 1.16.6 of this Part; if their activity involves the collection of used oil;
5. § 1.16.7 of this Part; if their activity involves the transportation of used oil;
6. § 1.16.8 of this Part; if their activity involves the processing or re/refining of used oil, or involves the aggregation of or collection of used oil beyond what is allowed under §§ 1.16.5 and 1.16.6 of this Part.

E. Tracking:

1. Used oil marketers shall keep a record of each used oil shipment received for transport for a period of at least three years that shall include the following:
  - a. The name and address of the used oil generator, used oil transporter or used oil processor/re-refiner who provided the used oil for transport;
  - b. The EPA Identification Number (if applicable) of the used oil generator, used oil transporter or used oil processor/re-refiner who provided the used oil for transport;
  - c. The quantity of used oil accepted;
  - d. The date of acceptance; and

- e. The name and signature of an agent of the used oil generator, used oil transporter or used oil processor/re-refiner that provided the used oil for transport.
2. Deliveries: Used oil marketers shall keep a record of each shipment of used oil that is delivered to another used oil transporter, processor/re-refiner, or used oil burner that shall include:
- a. The name and address of the receiving facility or used oil transporter;
  - b. The EPA Identification number of the receiving facility or used oil transporter;
  - c. The quantity of used oil delivered;
  - d. The date of the delivery;
  - e. The name and signature, dated upon receipt of the used oil, of an agent of the receiving facility or used oil transporter.
- F. Record Keeping: All records generated by the transportation of used oil shall be retained by the used oil marketer for a period of at least three years.
- G. Notification: Used oil marketers shall obtain an EPA Identification Number as per § 1.7.4(A) of this Part.

## **1.17 Corrective Action**

### **1.17.1 Applicability:**

- A. For a facility owner or operator seeking a new permit or a renewal permit (including a post closure permit) for the treatment, storage, or disposal of hazardous waste, the corrective action provisions of 40 C.F.R. § 264.101(a)-(c) are incorporated by reference. These provisions in 40 C.F.R. § 264.101 do not apply to a remediation waste management site unless it is part of a facility subject to a permit for treating, storing, or disposing of hazardous wastes that are not remediation wastes.
- B. Additional requirements to address releases from certain types of solid waste management units, including regulated units (as defined in 40 C.F.R. § 264.90(a)(2)) and miscellaneous units, are provided in 40 C.F.R. § 264.90.100, that are incorporated by reference.
- C. Pursuant to State law, The Department's "Rules and Regulations for the Investigation and Remediation of Hazardous Material Releases" applies to remediation waste management sites, including, but not limited to, facilities and solid waste management units subject to the additional requirements of §§ 1.17.1(A) and (B) of this Part. The Department has the authority to require

additional remediation measures on a case by case basis, when necessary to protect human health and the environment, in accordance with 40 C.F.R. § 270.32.

### **1.17.2 Permitting Options:**

- A. A facility owner or operator that is required by the Department to obtain a permit to treat, store, or dispose of remediation waste that is hazardous shall comply with § 1.9 of this Part permitting requirements or shall seek a Remedial Action Plan permit (“RAP”). 40 C.F.R. § 270 Subpart H is incorporated by reference except as follows:
1. In 270.80(a), replace “§§ 270.3 through 270.66” with “§ 1.9 of this Part”
  2. In 270.85(a)(1), replace §§ 270.3 through 270.66” with “§ 1.9 of this Part”.
  2. In 270.140 and 270.150, replace “issuing Regional Office” with “Department”.
  3. In 270.155, replace the “EPA’s Environmental Appeals Board”, “the Environmental Appeals Board”, and “the Board” with “the Department’s Administrative Adjudication Division”.
  4. In 270.155, add “(c) All appeals shall be in writing and shall be filed with the clerk of the Administrative Adjudication Division within thirty (30) calendar days of the Director’s decision to approve or deny the RAP. All appeals shall be heard before Division of Administrative Adjudication hearing officers.”
  5. In 270.190, replace “EPA’s Environmental Appeals Board” and “the Environmental Appeals Board” with “the Department’s Administrative Adjudication Division”.
  6. In 270.190 add “(c)(4) The letter from the appealing person shall be filed with the clerk of the Department’s Administrative Adjudication Division within thirty (30) calendar days of the Director’s issuance of the decision.”
  7. Delete 270.215(c) and (d).
  8. In 270.230(e), before the colon add “(provided the alternate locations are not at facilities subject to permits for treating, storing, or disposing of hazardous wastes that are not remediation wastes.)”

### **1.17.3 Management of Remediation Waste:**

- A. The owner or operator of a remediation waste management site may seek to employ one or more of the following types of management units for increased flexibility in performing remediation:

1. Corrective Action Management Units (CAMUs) as defined in 40 C.F.R. § 270.2 for treatment, storage, and/or disposal of remediation waste;
  2. Temporary Units (TUs) for treatment and/or storage of remediation waste under 40 C.F.R. § 264.553;
  3. Staging Piles for storage of remediation waste.
- B. These management units are defined in and subject to the provisions and conditions of 40 C.F.R. § 264.550 through 265.554, that are incorporated by reference.
- C. The owner or operator of a remediation waste management site may choose to treat remediation waste and then dispose of it in a permitted hazardous waste landfill, provided the waste is at least treated and disposed of according to the provisions and conditions of 40 C.F.R. § 264.555, that is incorporated by reference.

### **1.18 Appeals and Penalties**

- A. Enforcement Action Appeals: All requests for an adjudicatory hearing shall be in writing and shall be filed with the clerk of the Administrative Adjudication Division within twenty (20) days of receipt of the contested enforcement action.
- B. Civil Penalties for Violations: Persons who shall violate the provisions of these Rules and Regulations shall be subject to the penalties as provided for by R.I. Gen. Laws § 23-19.1-17
- C. Criminal Penalties for Violations: Persons who shall violate the provisions of these Rules and Regulations shall be subject to the penalties as provided for by R.I. Gen. Laws § 23-19.1-18.