Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 669

Grants programs-transportation, Highways and roads, Taxes, Motor vehicles.

Issued on: July 14, 2010.

Victor M. Mendez,

Administrator.

■ In consideration of the foregoing, the FHWA amends part 669 of Title 23, Code of Federal Regulations, as follows:

PART 669—ENFORCEMENT OF HEAVY VEHICLE USE TAX

■ 1. The authority citation for part 669 is revised to read as follows:

Authority: 23 U.S.C. 141(c) and 315; 49 CFR 1.48(b).

■ 2. Revise § 669.7 to read as follows:

§ 669.7 Certification requirement.

The Governor of each State, or his or her designee, shall certify to the FHWA before January 1 of each year that it is obtaining proof-of-payment of the heavy vehicle use tax as a condition of registration in accordance with 23 U.S.C. 141(c). The certification shall cover the 12-month period ending September 30, except for the certification due on January 1, 2011, which shall cover the 4-month period from June 1, 2010 to September 30, 2010.

§ 669.9 [Amended]

■ 3. In § 669.9, amend paragraphs (b), and (c) by removing the words "23 U.S.C. 141(d)" and adding in its place the words "23 U.S.C. 141(c)" in each place it appears.

§ 669.11 [Amended]

■ 4. Amend § 669.11 by removing the word "July" and adding in its place the word "January".

■ 5. Revise § 669.13 to read as follows:

§ 669.13 Effect of failure to certify or to adequately obtain proof-of-payment.

If a State fails to certify as required by this regulation or if the Secretary of Transportation determines that a State is not adequately obtaining proof-of-payment of the heavy vehicle use tax as a condition of registration notwithstanding the State's certification, Federal-aid highway funds apportioned to the State under 23 U.S.C. 104(b)(4) for the next fiscal year shall be reduced in an amount up to 25 percent as determined by the Secretary.

■ 6. Revise § 669.15 to read as follows:

§ 669.15 Procedure for the reduction of funds.

(a) Each fiscal year, each State determined to be in nonconformity with the requirements of this part will be advised of the funds expected to be withheld from apportionment in accordance with § 669.13 and 23 U.S.C. 141(c), as part of the advance notice of apportionments required under 23 U.S.C. 104(e), normally not later than 90 days prior to final apportionment.

(b) A State that received a notice in accordance with paragraph (a) of this section may within 30 days of its receipt of the advance notice of apportionments, submit documentation showing why it is in conformity with this Part. Documentation shall be submitted to the Federal Highway Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.

(c) Each fiscal year, each State determined to be in nonconformity with the requirements of this part and 23 U.S.C. 141(c), based on FHWA's final determination, will receive notice of the funds being withheld from apportionment pursuant to section 669.3 and 23 U.S.C. 141(c), as part of the certification of apportionments required under 23 U.S.C. 104(e), which normally occurs on October 1 of each fiscal year.

■ 7. Amend § 669.19 as follows:

■ a. Amend paragraphs (a) and (b) by removing the words "23 U.S.C. 104(b)(5)" and adding in its place the words "23 U.S.C. 104(b)(4)" in each place it appears; and

■ b. Amend paragraph (c) by removing the word "Secretary's".

■ 8. Revise § 669.21 to read as follows:

§ 669.21 Procedure for evaluating State compliance.

The FHWA shall periodically review the State's procedures for complying with 23 U.S.C. 141(c), including an inspection of supporting documentation and records. In those States where a branch office of the State, a local jurisdiction, or a private entity is providing services to register motor vehicles including vehicles subject to HVUT, the State shall be responsible for ensuring that these entities comply with the requirements of this part concerning the collection and retention of evidence of payment of the HVUT as a condition of registration for vehicles subject to such tax and develop adequate procedures to maintain such compliance. The State or other responsible entity shall retain a copy of the receipted IRS Schedule 1 (Form 2290), or an acceptable substitute prescribed by 26 CFR Part 41 sec. 41.6001–2 for a period of 1 year for purposes of evaluating State compliance with 23 U.S.C. 141(c) by the FHWA. The State may develop a software system to maintain copies or images of this proof-of-payment.

[FR Doc. 2010–18180 Filed 7–23–10; 8:45 am]

BILLING CODE 4910–22–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R01–RCRA–0561; FRL–9179–5]

Rhode Island: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The State of Rhode Island has applied to EPA for final authorization of certain changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is authorizing the State's changes through this immediate final action.

DATES: This final authorization will become effective on September 24, 2010 unless EPA receives adverse written comment by August 25, 2010. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take immediate effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–RCRA–0561, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: biscaia.robin@epa.gov.*
- *Fax:* (617) 918–0642, to the attention of Robin Biscaia.
- *Mail:* Robin Biscaia, RCRA Waste Management Section, Office of Site Remediation and Restoration (OSRR 07–01), EPA New England—Region 1, 5 Post Office Square, Suite 100, Boston, MA 02109–3912.
- *Hand Delivery or Courier:* Deliver your comments to Robin Biscaia, RCRA Waste Management Section, Office of Site Remediation and Restoration (OSRR 07–01), EPA New England—Region 1, 5 Post Office Square, 7th floor, Boston, MA 02109–3912. Such deliveries are only accepted during the Office's normal hours of operation, and

special arrangements should be made for deliveries of boxed information.

Instructions: Identify your comments as relating to Docket ID No. EPA–R01–RCRA–0561. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or claimed to be other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: EPA has established a docket for this action under Docket ID No. EPA–R01–RCRA–0561. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although it may be listed in the index, some information might not be publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the following two locations: (i) EPA Region 1 Library, 5 Post Office Square, 1st floor, Boston, MA 02109–3912; by appointment only; tel: (617) 918–1990; and (ii) Rhode Island Department of Environmental Management, 235 Promenade St., Providence, RI 02908–5767, by appointment only through the Office of Technical and Customer Assistance, tel: (401) 222–6822.

FOR FURTHER INFORMATION CONTACT:
Robin Biscaia, RCRA Waste Management Section, Office of Site Remediation and Restoration (OSRR 07–01), EPA New England—Region 1, 5 Post Office Square, Suite 100, mail code OSRR 07–1, Boston, MA 02109–3912; telephone number: (617) 918–1642; fax number: (617) 918–0642, e-mail address: *biscaia.robin@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. Why are revisions to State programs necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What decisions have we made in this rule?

We have concluded that Rhode Island's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Rhode Island final authorization to operate its hazardous waste program with the changes described in the authorization application. Rhode Island's Department of Environmental Management (RIDEM) has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders and for carrying out the aspects of the RCRA program covered by its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement any such requirements and prohibitions in Rhode Island, including issuing permits, until the State is granted authorization to do so. In particular, the EPA will continue to implement the Land Disposal Restrictions (LDR) requirements in 40 CFR part 268, the RCRA air emission control requirements in 40 CFR part 264, subparts AA, BB and CC, and 40 CFR part 265, subparts AA, BB and CC, and the Boilers and Industrial Furnaces (BIF) requirements in 40 CFR part 266, subpart H, because Rhode Island has not yet sought and obtained authorization for those requirements. Regulated entities in Rhode Island must comply with these directly administered EPA requirements, in addition to the State hazardous waste requirements. While there currently are no facilities in Rhode Island subject to the BIF requirements, there are many facilities in Rhode Island (including some generators as well as treatment, storage and disposal facilities) subject to the LDR and AA, BB and CC requirements.

C. What is the effect of today's authorization decision?

The effect of this decision is that a facility in Rhode Island subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Rhode Island has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA also retains its full authority under RCRA sections 3007, 3008, 3013, and 7003, which includes, among others, authority to:

- Perform inspections, and require monitoring, tests, analyses or reports
- Enforce RCRA requirements and suspend or revoke permits
- Take enforcement actions

This action does not impose additional requirements on the regulated community because the regulations for which Rhode Island is being authorized by today's action are already effective under State law, and are not changed by today's action.

D. Why wasn't there a proposed rule before today's rule?

EPA did not publish a proposal before today's Immediate Final rule because we view this as a routine program change and do not expect adverse comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State program changes. That proposed rule will serve as the basis for later issuing a final rule, in the event that there is an objection to this Immediate Final Rule, and we

therefore need to withdraw this Immediate Final Rule and respond to the objection before issuing a new final rule.

In addition to the matters covered by this Immediate Final rule, the State is seeking authorization for the zinc fertilizer rule (checklist 200). Because we think that there may be adverse comments that oppose the Federal authorization of the State for this rule, we are not including the authorization of the zinc fertilizer rule within this Immediate Final rule. Rather, we are proposing to authorize Rhode Island for the zinc fertilizer rule in today's proposed rule. Any approval of Rhode Island to implement the zinc fertilizer rule will occur only through a later separate final rule, which will be issued only after considering any public comments.

E. What happens if EPA receives comments that oppose this action?

If EPA receives comments that oppose this authorization (other than relating to the zinc fertilizer rule), we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule based upon this proposed rule that also appears in today's **Federal Register**. You may not have another opportunity to comment. If you want to comment on this authorization, you should do so at this time.

If we receive adverse comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw that part of this rule but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What has Rhode Island previously been authorized for?

Rhode Island initially received final Authorization on January 30, 1986, effective January 31, 1986 (51 FR 3780) to implement its base hazardous waste management program. We granted authorization for changes to their program on March 12, 1990, effective March 26, 1990 (55 FR 9128), March 6, 1992, effective May 5, 1992 (57 FR 8089), October 2, 1992, effective December 1, 1992 (57 FR 45574), August 9, 2002, effective October 8, 2002 (67 FR 51765), and December 11, 2007, effective February 11, 2008 (72 FR 70229).

G. What changes are we authorizing with today's action?

On June 17, 2010, EPA received Rhode Island's complete program revision application dated June 15, 2010 seeking authorization for their changes in accordance with 40 CFR 271.21. The RCRA program revisions for which Rhode Island is seeking authorization include updates to its regulations governing Treatment, Storage and Disposal Facilities (TSDFs). The State has incorporated by reference the Federal requirements relating to TSDFs in 40 CFR parts 264, 270 and 124, through July 1, 2008, while making various more stringent changes as specified in Rules 8.0 and 7.0, respectively. Although there currently are no interim status TSDFs in Rhode Island, the State similarly has updated its incorporation by reference of the Federal interim status facility regulations in 40 CFR part 265. Also, the State has updated its incorporation by reference of other Federal requirements through July 1, 2008, as well as making other changes to its base program, and thus also is seeking authorization for various other State regulations which address other Federal requirements through July 1, 2008. These other changes include adopting the updated Uniform Hazardous Waste Manifest Rule (checklist 207), adopting Federal waste listings through the Dyes and Pigments Rule (checklist 206), and adding Mercury Containing Equipment (checklist 209), Used Electronics and Silver Containing Photo-Fixing Solution to the State's Universal Waste Rule.

The State's authorization application consists of a cover letter requesting authorization, a copy of RIDEM's Rules and Regulations for Hazardous Waste Management dated June 2010, regulatory checklists comparing the State and Federal requirements, justification statements regarding why Rhode Island has added used electronics and silver-containing photo fixing solutions to its Universal Waste Rule, and a Supplement to the Attorney General's Statement.

We are now making an immediate final decision, subject to reconsideration only if we receive written comments that oppose this action, that Rhode Island's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Therefore, we grant Rhode Island final authorization for the program changes identified below. Note, the Federal requirements are identified by their checklist (CL) number and/or rule descriptions followed by the corresponding state regulatory analog ("Rule") from Rhode Island's Rules and Regulations for Hazardous Waste Management as in effect on June 7, 2010.

First, we are authorizing State regulations which are analogous to the Federal regulations governing Treatment, Storage and Disposal Facilities (TSDFs) in 40 CFR parts 264, 270 and 124 (July 1, 2008). As analogs to 40 CFR part 264 (July 1, 2008), we are authorizing Rule 2.2 B., Rule 2.2 F, and Rule 8.0—including all of Rule 8.1, except for the following provision which has been determined to be broader in scope: Rule 8.1 A.4. As analogs to 40 CFR part 270 (July 1, 2008), we are authorizing Rule 2.2 B., Rule 2.2 I., Rule 7.0 A., and all of Rule 7.0 B. except for the following provisions which have been determined to be broader in scope: Rule 7.0 B.7. insofar as it regulates circuit boards subject to the Federal scrap metal exemption; and Rule 7.0 B.19. As analogs to 40 CFR part 124 (July 1, 2008), we are authorizing Rule 2.2 B., Rule 2.2 K., and Rule 7.0 C.

Second, we are authorizing State regulations which are analogous to the Federal regulations governing interim status TSDFs in 40 CFR part 265 (July 1, 2008). As analogs to 40 CFR part 265 (July 1, 2008), we are authorizing Rule 2.2 B. and 2.2 G.

By authorizing the State regulations listed in the two paragraphs immediately above, we also are determining that the State meets the TSDF requirements (including permitted facility requirements and interim status facility requirements) listed in the following Checklists: CL 16—Paint Filter Test, 50 FR 18370–18375, April 30, 1985; CL 17E—Location Standards for Salt Domes, Salt Beds, and Underground Mines and Caves, 50 FR 28702–28755, July 15, 1985; CL 17F—Liquids in Landfills, 50 FR 28702–28755, July 15, 1985; CL 17H—Double Liners, 50 FR 28702–28755, July 15, 1985; CL 17I—Ground-Water Monitoring, 50 FR 28702–28755, July 15, 1985; CL 17M—Pre-construction Ban, 50 FR 28702–28755, July 15, 1985; CL 17N—Permit Life, 50 FR 28702–28755, July 15, 1985; CL 17P—Interim Status, 50 FR 28702–28755, July 15, 1985; CL 17Q—Research and Development Permits, 50 FR 28702–28755, July 15, 1985; CL 17S—Exposure Information, 50 FR 28702–28755, July 15, 1985; CL 25—Codification Rule, Technical Correction regarding subpart N—Landfills, 51 FR 19176–19177, May 28, 1986; CL 28—

Standards for Hazardous Waste Storage and Treatment Tank Systems, 51 FR 25422–25486, July 14, 1986 and 51 FR 29430–29431, August 15, 1986 [**Note:** To cover the related changes to definitions and generator requirements made by this Federal checklist/rulemaking, we also are authorizing Rules 2.2C, 2.2D and 3.0—introductory note regarding effective dates of tank regulations]; CL 30—Biennial Report Correction (regarding TSDFs), 51 FR 28556, August 8, 1986; CL 44D—Permit Modification, 52 FR 45788, Dec. 1, 1987; CL 44E—Permit as a Shield Provision, 52 FR 45788, Dec. 1, 1987; CL 44F—Permit Conditions to Protect Human Health and the Environment, 52 FR 45788, Dec. 1, 1987; CL 44G—Post-Closure Permits, 52 FR 45788, Dec. 1, 1987; CL 52—Standards for Hazardous Waste Storage and Treatment Tank Systems, 53 FR 34079, Sept. 2, 1988 [**Note:** To cover the related changes to definitions made by this Federal checklist/rulemaking, we also are authorizing Rule 2.2C]; CL 54—Permit Modification for Hazardous Waste Management Facilities, 53 FR 37912, Sept. 28, 1988 and 53 FR 41649, Oct. 24, 1988; CL 55—Statistical Methods for Evaluating Ground-Water Monitoring Data from Hazardous Waste Facilities, 53 FR 39720, Oct. 11, 1988; CL 60—Amendment to Requirements for Hazardous Waste Incinerator Permits, 54 FR 4286, Jan. 30, 1989; CL 61—Changes to Interim Status Facilities for Hazardous Waste Management etc., 54 FR 9596, March 7, 1989; CL 64—Delay of Closure Period for Hazardous Waste Management Facilities, 54 FR 33376, Aug. 14, 1989; CL 70—Changes to Part 124, 48 FR 14146, Apr. 1, 1983 and 48 FR 30113, June 30, 1983 and 53 FR 28118, July 26, 1988 and 53 FR 37396, Sept. 26, 1988 and 54 FR 246, Jan. 4, 1989; CL 77—HSWA Codification Rule, Double Liners, Correction, 55 FR 19262, May 9, 1990; CL 99—Amendments to Interim Status Standards for Downgradient Ground-Water Monitoring Well Locations, 56 FR 66356, Dec. 23, 1991; CL 100—Liners and Leak Detection Systems for Hazardous Waste Land Disposal Units, 57 FR 3462, Jan. 29, 1992; CL 113—Consolidated Liability Requirements, 53 FR 33938, Sept. 1, 1988, 56 FR 30200, July 1, 1991 and 57 FR 42832, Sept. 16, 1992; CL 118—Liquids in Landfills II, 57 FR 54452, Nov. 18, 1992 [**Note:** To cover a related change to a definition made by this Federal checklist/rulemaking, we also are authorizing Rule 2.2C]; CL 131—Recordkeeping Instructions, 59 FR 13891, March 24, 1994; CL 133—Letter of Credit Revision, 59 FR 29958, June 10, 1994; CL 145—Liquids in Landfills III, 60 FR 35703, July 11, 1995; CL 148—RCRA Expanded Public Participation Rule, 60 FR 63417, Dec. 11, 1995; and CL 174—Post-Closure Permit Requirements and Closure Process, 63 FR 56710, Oct. 22, 1998.

Third, we are authorizing State regulations that are analogous to the Uniform Hazardous Waste Manifest Rule, CL 207, 70 FR 10776, March 24, 2005 and 70 FR 35034, June 16, 2005: Rules 2.2 C, including 2.2 C.7, 2.2 D, including 2.2 D.3, 2.2 E, 2.2 F, 2.2 G, 3.0 including definitions of "Administrator—Regional Administrator," "EPA," "Hazardous Waste" and "Manifest," 5.2 A, 5.3, 5.4 B, 5.6, 5.9, 6.3 K, 6.4, 6.5, 8.1, including 8.1 A.23 and 8.1 A.24, 8.1 A.25, and 8.1 A.26.

Fourth, we are authorizing the State regulations that cover additional hazardous wastes that have been listed by the EPA since the time of Rhode Island's base program approval: CL 14—Dioxin Waste Listing and Management Standards, 50 FR 1978, Jan. 14, 1985: Rules 2.2 C, 3.0—definitions of "hazardous waste" and "acutely hazardous waste," 2.2 C.14, 5.0, 5.2 A, 2.2 F, 2.2 G, 2.2 I, and 7.0 B.33; CL 18—Listing of TDI, DNT and TDA Wastes, 50 FR 42936, Oct. 23, 1985: Rules 2.2 C and 3.0—definition of "hazardous waste"; CL 20—Listing of Spent Solvents, 50 FR 53315, Dec. 31, 1985: Rule 2.2 C; CL 21—Listing of EDB Wastes, 51 FR 5327, Feb. 13, 1986: Rule 2.2 C; CL 22—Listing of Four Spent Solvents, 51 FR 6537, Feb. 25, 1986: Rules 2.2 C and 3.0—definition of "hazardous waste"; CL 33—Listing of EBDC, 51 FR 37725, Oct. 24, 1986: Rule 2.2 C; CL 56—Removal of Iron Dextran from the List of Hazardous Wastes, 53 FR 43878, Oct. 31, 1988: Rules 2.2 C and 3.0—definition of "hazardous waste"; CL 57—Removal of Strontium Sulfide from the List of Hazardous Wastes, 53 FR 43881, Oct. 31, 1988: Rules 2.2 C and 3.0—definition of "hazardous waste"; CL 68—Reportable Quantity Adjustment Methyl Bromide Production Wastes, 54 FR 41402, Oct. 6, 1989: Rule 2.2 C; CL 69—Reportable Quantity Adjustment, 54 FR 50968, Dec. 11, 1989: Rule 2.2 C; CL 72—Modification of F019 Listing, 55 FR 5340, Feb. 14, 1990: Rule 2.2 C; CL 75—Listing of 1,1-Dimethylhydrazine Production Wastes, 55 FR 18496, May 2, 1990: Rule 2.2 C; CL 81—Petroleum Refinery Primary and Secondary Oil/Water/Solids Separation Sludge Listings, 55 FR 46354, Nov. 2, 1990 and 55 FR 51707, Dec. 17, 1990: Rule 2.2 C; CL 86—Removal of Strontium Sulfide from the List of Hazardous Wastes—Technical Amendment, 56 FR 7567, Feb. 25, 1991: Rules 2.2 C and 3.0—definitions of "hazardous waste" and "acutely hazardous waste."; CL 88—Administrative Stay for K069 Listing, 56 FR 19951, May 1, 1991: Rule 2.2 C; CL 89—Revision to the Petroleum Refining Primary and Secondary Oil/Water/Solids Separation Sludge Listings, 56 FR 21955, May 13, 1991: Rule 2.2 C; CL 110—Coke By-Products Listings, 57 FR 37284, Aug. 18, 1992: Rule 2.2 C; CL 115—Chlorinated Toluenes Production Waste Listing, 57 FR 47376, Oct. 15, 1992: Rule 2.2 C; CL 134—Correction of Beryllium Powder (P015) Listing, 59 FR 31551, June 20, 1994: Rules 2.2 C and 3.0—definition of "hazardous waste"; CL 140—Carbamate Production Identification and Listing of Hazardous Waste, 60 FR 7824, Feb. 9, 1995, 60 FR 19165, April 17, 1995 and 60 FR 25619, May 12, 1995: Rules 2.2 C and 3.0—definition of "hazardous waste"; CL 159—Conformance with the Carbamate Vacatur, 62 FR 32974, June 17, 1997: Rules 2.2 C and 3.0—definition of "hazardous waste"; CL 185—Organobromine Production Wastes Vacatur, 65 FR 14472, March 17, 2000: Rules 2.2 C and 3.0—definition of "hazardous waste"; CL 187—Petroleum Refining Process Wastes—Clarification, 64 FR 36365, June 8, 2000: Rule 2.2 C; CL 195—Inorganic Chemical Manufacturing Wastes Identification and Listing, 66 FR 58258, Nov. 20, 2001 and 67 FR 17119, April 9, 2002: Rule 2.2 C; CL 206—Non-wastewaters from Dyes and Pigments, 70 FR 9138, Feb. 24, 2005 and 70 FR 35032, June 16, 2005: Rule 2.2 C; and Special Consolidated Checklist for Wood Preserving Listings, covering CL 82, 55 FR 50450, Dec. 6, 1990, CL 92, 56 FR 30192, July 1, 1991, CL 120, 57 FR 61492, Dec. 24, 1992, and CL 167 F, 63 FR 28556, May 26, 1998: Rules 2.2 C, 2.2 D, 5.2 A, 2.2 F, 2.2 G, and 2.2 I.

Fifth, we are authorizing the State regulations that add Mercury Containing Equipment, Used Electronics and Silver Containing Photo-Fixing Solution to the State's Universal Waste Rule, and that otherwise update the State Universal Waste Rule regulations: CL 209—Mercury Containing Equipment, 70 FR 45508 (Aug. 5, 2005): Rules 2.2 C, 2.2 F, 2.2 G, 2.2 I, 2.2 J, 3.0—definitions of "universal waste," "large quantity handler of universal waste," "small quantity handler of universal waste," 8.1 A.8–10, 13.1 C., 13.4, 13.5 intro., 13.5 C, and 13.5 F–R; 40 CFR part 273, subpart G—Petitions to Include Other Wastes Under 40 CFR part 273: State regulations including Used Electronics in universal waste rule: Rules 2.2 J, 13.1 E, 13.2, 13.4, 13.5 intro., 13.5 A, and 13.

5 F.—S, and State regulations including Silver-Containing Photo-Fixing Solutions in universal waste rule: Rules 2.2 J, 13.1 F, 13.3, 13.4, 13.5 intro., 13.5 A, and 13.5 F.—S; CL 176—Technical Amendments to Universal Waste Rule, 63 FR 71225 (Dec. 24, 1998): Rules 2.2 H and 3.0—definition of "small quantity handler of universal waste."; 40 CFR part 273: current State universal waste regulations with miscellaneous updates: Rule 13.0—all. Note: These universal waste rule regulations are being authorized except to the extent that they cover materials that are not Federal hazardous wastes. The broader in scope wastes are only materials which pass the TCLP test (*e.g.,* fluorescent bulbs with very low levels of mercury), materials that for other reasons are not classified as Federal solid and hazardous wastes (*e.g.,* CRTs that have met the Federal conditions for being excluded from the definition of solid waste), and materials that are excluded from all Federal hazardous waste regulation as household hazardous wastes.

Sixth, we are authorizing State regulations that are analogous to the Federal regulations covered by the following additional Checklists: CL 9—Household Waste, 49 FR 44978, Nov. 13, 1984: Rules 2.2 C11, 3.0—definition of "household hazardous waste," and 5.0 intro., except for provisions in 5.0 intro. which regulate facilities that accept household hazardous waste which are broader in scope, and not including Rule 13.5 provisions which regulate certain household hazardous wastes as universal wastes which are broader in scope; CL 17C—Household Waste, 50 FR 28702–28755, July 15, 1985: Rules 2.2 C11, 3.0—definition of "household hazardous waste," and 5.0 intro., except for provisions in 5.0 intro. which regulate facilities that accept household hazardous waste which are broader in scope, and not including Rule 13.5 provisions which regulate certain household hazardous wastes as universal wastes which are broader in scope; CL 17D—Waste Minimization, 50 FR 28702–28755, July 15, 1985: Rules 2.2 D, 2.2 F, 2.2 I, 5.5, 7.0 C4(c), and 8.1 A.23; CL 17G—Dust Suppression, 50 FR 28702–28755, July 15, 1985: Rule 2.2 H; CL 17J—Cement Kilns, 50 FR 28702–28755, July 15, 1985: Rules 2.2 C and 3.0—definition of "hazardous waste"; CL 17R—Hazardous Waste Exports, 50 FR 28702–28755, July 15, 1985: see CL 31; CL 31—Exports of Hazardous Waste, 51 FR 28664, Aug. 8, 1986: Rules 2.2 C, 2.2 C.14, 2.2 D, 2.2 E, 3.0—definitions of "hazardous waste" and "manifest", 5.0 intro., 5.5, 6.3 L, 6.3 K, 6.3 M and 6.4, but not including Rule 5.3 F since the EPA directly administers and enforces the export and import requirements of 40 CFR part 262, subparts E and F as incorporated by reference by R.I. Rule 5.3 F; CL 48—Farmer Exemptions—Technical Corrections, 53 FR 27164, July 19, 1988: more stringent State provisions in Rules 2.2 D, 2.2 D.5, 2.2 G1, 5.0—intro., 7.0 B.4, 8.1 A.1 and Rule 13.0 provisions re: universal waste pesticides; CL 58—Standards for Generators or Hazardous Waste, 53 FR 45089, Nov. 8, 1988: Rules 2.2 D and 5.3 B; CL 67—Testing and Monitoring Activities, 54 FR 40260, Sept. 29, 1989: Rule 2.2 C; CL 73—Testing and Monitoring Activities—Technical Corrections, 55 FR 8948, Mar. 9, 1990: Rule 2.2 C; CL 76—Criteria for Listing Toxic Wastes—Technical Amendment, 55 FR 18726, May 4, 1990: Rule 2.2 C; CL 97—Exports of Hazardous Wastes—Technical Corrections, 56 FR 43704, Sept. 4, 1991: Rule 2.2 D but not Rule 5.3 F—see note after checklist 31; CL 117A—Reissuance of the Mixture and Derived From Rule, 57 FR 7628, March 3, 1992, 57 FR 23062, June 1, 1992, 57 FR 49278, Oct. 30, 1992: Rules 2.2 C and 3.0—definition of "hazardous waste"; CL 126—Testing and Monitoring Activities, 58 FR 46040, Aug. 31, 1993 and 59 FR 47980, Sept. 19, 1994: Rules 2.2 C, 2.2 F, and 2.2 G; CL 128—Wastes from the Use of Chlorophenolic Formulations in Wood Surface Protection, 59 FR 458, Jan. 4, 1994: Rule 2.2 C; CL 132—Wood Surface Protection—Correction, 59 FR 28484, June 2, 1994: Rule 2.2 C; CL 135—Recovered Oil Exclusion, 59 FR 38536, July 28, 1994: Rules 2.2 C and 3.0—definition of "hazardous waste"; CL 136—Removal of the Conditional Exemption for Certain Slag Residues, 59 FR 43496, Aug. 24, 1994: Rule 2.2 H; CL 139—Testing and Monitoring Activities—Amendment I, 60 FR 3089, Jan. 13, 1995: Rule 2.2 C; CL 141—Testing and Monitoring Activities—Amendment II, 60 FR 17001, April 4, 1995: Rule 2.2 C; CL 144—Removal of Legally Obsolete Rules, 60 FR 33912, June 29, 1995: Rules 2.2 C, 2.2 I and 7.0 B.21; CL 150—Amendments to the Definition of Solid Waste—Amendment II, 61 FR 13103, March 26, 1996: Rule 2.2 C; CL 152—Imports and Exports of Hazardous Waste—Implementation of OECD Council Decision, 61 FR 16290, April 12, 1996: Rules 2.2 C, 2.2 E, 2.2 F, 2.2 G, 2.2 H. 2.2 J, 3.0—definition of "hazardous waste", 5.0—intro., 7.0 B.5, 8.1 A.14, and 2.2 D—except not including the incorporation by reference of 40 CFR part 262, subpart H by Rule 2.2 D since the EPA directly administers and enforces the export and import requirements of that subpart; CL 156—Military Munitions Rule, 62 FR 6622, Feb. 12, 1997: Rules 2.2 C, 2.2 D, 2.2 E, 2.2 F, 2.2 G, 2.2 H, 2.2 I, 5.0, 5.3, 6.0 B, and 6.1 A.8; CL 158—Testing and Monitoring Activities Amendment III, 62 FR 32452, June 13, 1997: Rules 2.2 C, 2.2 G, and 3.0—definition of "hazardous waste"; CL 164—Kraft Mill Steam Stripper Condensate Exclusion, 63 FR 18504, April 15, 1998: Rule 2.2 C; CL 167D—Mineral Processing Secondary Materials Exclusion, 63 FR 28556, May 26, 1998: Rules 2.2 C and 3.0—definition of "hazardous waste", but see CL 199 since State's mineral processing secondary materials exclusion has been revised in accordance with the revisions covered by that Checklist; CL 178—Petroleum Refining Process Wastes—Leachate Exemption, 64 FR 6806, Feb. 11, 1999: Rule 2.2 C; CL 180—Test Procedures for the Analysis of Oil and Grease and Non-Polar Material, 64 FR 26315, May 14, 1999: Rule 2.2 C; CL 192A—Mixture and Derived-From Rules Revisions, 66 FR 27266, May 16, 2001: Rules 2.2 C and 3.0—definition of "hazardous waste"; CL 193—Change of Official EPA Mailing Address, 66 FR 34374, June 28, 2001: Rule 2.2 C; CL 194—Mixture and Derived-From Rules Revision II, 66 FR 50332, Oct. 3, 2001: Rules 2.2 C and 3.0—definition of "hazardous waste"; CL 199—Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Wastes and TCLP Use with MGP Waste, 67 FR 11251, March 13, 2002: Rules 2.2 C and 3.0—definition of "hazardous waste," except not including Rule 2.2 C.18 regarding State's regulation of MGP waste in some circumstances, which is broader in scope; CL 208—Methods Innovation Rule and SW–846 Final Update IIIB, 70 FR 34538, June 14, 2005 and 70 FR 44150, August 1, 2005: Rules 2.2 C, 2.2 F, 2.2 G, 2.2 I, 3.0—definition of "hazardous waste", 7.0 B.47, 7.0 B.79, 8.1 A.60 and 15 including 15.1 B.1; CL 211—Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures—Headworks Exemptions, 70 FR 57769, Oct. 4, 2005: Rules 2.2 C and 3.0—definition of "hazardous waste"; CL 213—Burden Reduction Initiative, 71 FR 16862, April 4, 2006: Rules 2.2 C, 2.2 C.4, 2.2 F, 2.2 G, 2.2 I, 2.2 J, 7.0 B.82, 8.1 A.17, 8.1 A.41, 8.1 A.45 and 8.1 A.64; CL 214—Errors in the Code of Federal Regulations, 71 FR 40254, July 14, 2006: Rules 2.2 C, 2.2 D, 2.2 F, 2.2 G, 2.2 H, 2.2 I, 3.0—definitions of "universal waste," "used oil", "hazardous waste", and "acutely hazardous waste", 5.0, 5.2 A, 7.0 B.4, 8.1 A.4, 8.1 A.20, 8.1 A.36, 13.5 F, 13.5 H,

13.5 I, 13.5 N, 15.1 B, 15.1 C, 15.2 A, 15.3, 15.3 F(3), 15.3 Table 1, 15.7, 15.7 G(2)(b), 15.7 G(2)(d), 15.7 H(1), 15.8 L, 15.8 Q, 15.8 Q(1), 15.7 Q6(c), 15.8 Q6(d), 15.8 S, 15.8 S(5), 15.8 W(1)(b), 15.8X(1)(b), 15.8 Z and 15.9 B(1); CL 216—Exclusion of Oil-Bearing Secondary Materials Processed in a Gassification System to Produce Synthesis Gas, 73 FR 57, Jan. 2, 2008: Rule 2.2 C; CL 218—F019 Exemption for Wastewater Treatment Sludges from Auto Manufacturing Zinc Phosphating Processes, 73 FR 31756, June 4, 2008: Rule 2.2 C; Consolidated Checklist for the Treatability Studies Exemption, covering CL 49, 53 FR 27290, July 19, 1988 and CL 129, 59 FR 8362, Feb. 18, 1994: Rules 2.2 C and 2.2 C.13; Consolidated Checklist for Bevill Exclusion for Mining Wastes, covering CL 53, 53 FR 35412, Sept. 13, 1988, CL 65, 54 FR 36592, Sept. 1, 1989, CL 71, 55 FR 2322, Jan. 23, 1990, CL 90, 56 FR 27300, June 13, 1991 and CL 167E, 63 FR 28556, May 26, 1998: Rules 2.2 C, 2.2 D, and 3.0—definition of "hazardous waste", except for 2.2 C.12 regarding the State's regulation of coal ash, which is broader in scope.

Seventh, we are authorizing the State for miscellaneous changes it has made to its previously authorized program rules as follows (note, the analogous state provisions follow the general areas of 40 CFR to which the changes relate): 40 CFR 262.34(d) and 261.5—conditional exemptions for small quantity generators and conditionally exempt small quantity generators: additional State Rules providing that Rhode Island is more stringent: 2.2 C.14, 2.2 D.2, 7.0 B.4, 7.0 B.20, 8.1 A.1, 2.2 C.7, 2.2.D.3, and additional/changed citations in Rule 3.0—hazardous waste definition and Rule 5.0—introduction; 40 CFR 262.10(f) and 262.70—conditional exemption for farmers: Rules providing that Rhode Island is more stringent: 2.2 D.1, 2.2 D.5, 5.0—introduction, 7.0 B.4 and 8.1 A.1; 40 CFR 261.4(a)(14)—conditional exemption for shredded circuit boards being recycled: Rules providing that Rhode Island is more stringent: 2.2 C.8 and 13.2; 40 CFR 264.1(d) and 270.1(c)(1)(i)—permit by rule requirements for injection wells: Rules providing that Rhode Island is more stringent: 7.0 B.4, 7.0 B.78, and 8.1 A.1; 40 CFR 264.1(c) and 270.1(c)(1)(iii)—permit by rule requirements for ocean disposal: Rules providing that Rhode Island is more stringent: 7.0 B.4, 7.0 B.78 and 8.1 A.1; Various Federal regulations reducing requirements for performance track facilities: Rules providing that Rhode Island is more stringent in not reducing requirements for performance track facilities: 2.2 C.4, 2.2 F, 5.2 A, 7.0 B82, 8.1 A.17, 8.1 A.45 and 8.1 A.64; 40 CFR 263.12—temporary storage by transporters: more stringent State regulations in Rule 6.14, except for the Rule 6.14 G application fee requirement which is broader in scope; 40 CFR 265.174, as incorporated by reference by 262.34—inspection requirement for container areas: Rule 5.2 A., including more stringent State requirement incorporating by reference 40 CFR 265.15(d), thus requiring that generators keep inspection logs; 40 CFR 270.1(c)(2)(v) and 264.1(c)(10)—wastewater treatment unit exemption: Rules 7.0 B.8 and 8.1 A.6—incorporation by reference of Federal provisions and also all of the (equivalent or more stringent) state additional language within those Rules in parts 7.0B8(a) and 8.1A6(a), 7.0B8(b) and 8.1A6(b), 7.0B8(c) and 8.1A6(c), 7.0B8(e) and 8.1A6(e), and the language at the end of both Rules, and also including the restriction of the exemption to facilities with "on site" discharges in parts 7.0 B.8(d) and 8.1 A.6(d), except for the rest of parts 7.0 B.8(d) and 8.1 A.6(d), and the last sentence of both Rules, regarding zero discharge units, regarding which action is deferred. Note also: other (more stringent) State requirements relating to designating agents to sign manifests, non-adoption of reduced permitting requirements and other more minor changes, already have been authorized in the first through third paragraphs above, and thus need not be authorized here.

Finally, we are authorizing the Rhode Island regulations which update the State's regulations by incorporating by reference the EPA RCRA regulations through July 1, 2008 (and the U.S. DOT regulations referenced in the EPA regulations through October 1, 2008) [previously the State had incorporated by reference Federal requirements only through 2004]: Regarding 40 CFR parts 260–265, 266 (except for subpart H), 270, 273 and 124: Rules 2.2 A, 2.2 B, and the Rule 3.0 definitions of 40 CFR and 49 CFR (as applying through 2008); also regarding 40 CFR parts 260 and 261: Rule 2.2 C; also regarding 40 CFR part 262: Rule 2.2 D., also regarding 40 CFR part 263: Rule 2.2 E., also regarding 40 CFR part 266: Rule 2.2 H., also regarding 40 CFR part 273: Rule 2.2 J. For the updated authorizations relating to Treatment, Storage and Disposal Facilities—40 CFR parts 264, 265, 270 and 124, see the first and second paragraphs above.

In addition to today's authorizations, we previously authorized Rhode Island Rule 15.01 E as being equivalent to the Federal exemption for used oil filters in 40 CFR 261.4(b)(13). *See* 72 FR 70229, 70231, 70233 (Dec. 11, 2007). However, we inadvertently failed to credit Rhode Island for having met the requirements of Checklists 104 and 107 regarding oil used filters at that time. We are today confirming that by adopting Rule 15.01 E, Rhode Island has met the Federal requirements addressed by those two Checklists.

Some State provisions may be authorized more than once, as the same State regulation may address different Federal requirements. Whether a State provision is authorized once or is authorized more than once, the effect is the same in making the provision part of the Federally authorized program and subject to Federal enforcement.

Today's final authorization of new State regulations and regulation changes is in addition to the previous authorizations of State regulations. All previously authorized State regulations remain part of the authorized program.

H. Where are the revised State rules different from the Federal rules?

The most significant differences between the State rules being authorized and the Federal rules as of July 1, 2008, are summarized below. It should be noted that this summary does not describe every difference, or every detail regarding the differences that are described. Also, EPA is not reopening its previous authorization decisions regarding Rhode Island. Previous determinations regarding whether particular Rhode Island provisions are "more stringent," or "broader in scope," or different but "equivalent" are described in the prior rulemaking actions listed in Section F., above, rather than here. Members of the regulated community are advised to read the complete regulations, along with this **Federal Register** document and the previous **Federal Register** documents, to ensure that they understand all of the requirements with which they will need to comply.

In addition to the differences between the State regulations and the Federal regulations as of July 1, 2008, described in items 1 through 3, below, the State rules are different from the current (2010) Federal rules in that the State has not adopted the EPA's Definition of Solid Waste (DSW) Rule, which took effect at the Federal level on December 29, 2008. Since today's authorization of the State regulations addresses Federal requirements only through July 1, 2008, and since the EPA currently is considering whether to revise the DSW Rule, this authorization rulemaking

does not address the extent to which not adopting the DSW makes particular State requirements more stringent versus broader in scope. Rather, consideration of this matter is deferred.

Also, as part of its current update of its regulations, Rhode Island has amended the language regarding the Federal exemption for wastewater treatment units (WWTUs) in 40 CFR 270.1(c)(2)(v) and 264.1(g)(6), rather than simply incorporating these Federal provisions by reference. *See Rules* 7.0 B.8. and 8.1 A.6. One of the amendments is in Rule 7.0 B.8.(d) and 8.1 A.6.(d), where the State is specifying that its WWTU exemption applies only when a unit has a "current ongoing discharge to surface waters or the sewers" subject to regulation under section 402 or 307 of the Clean Water Act, and the State's water act. Thus the State is limiting the exemption to units which currently are discharging to the water, as opposed to zero discharge units which discharge to the air. The State regulations further specify that, "zero discharge units such as evaporators are not covered by this exemption, but rather must comply with the RCRA requirements for generators or Treatment Storage and Disposal Facilities, as applicable, in addition to any requirements specified in any permit issued by the Department's Office of Water Resources or a Publicly Owned Treatment Works." Also, as part of this amendment, at the end of Rules 7.0 B.8. and 8.1 A.6., the State regulations specify that since zero discharge units are not exempted from the State's RCRA regulations, "the hazardous waste requirements apply both to any hazardous wastewaters and any hazardous sludges, when either is generated." For example, this means that all hazardous wastewaters being sent to a zero discharge unit must be stored in accordance with hazardous waste requirements, and counted as hazardous wastes, and that the zero discharge unit itself must meet State hazardous waste requirements (tank standards), rather than the facility only having to handle hazardous sludges as hazardous wastes when they leave the zero discharge unit.

Whether this particular State amendment is different but equivalent to the Federal regulations, or more stringent, or broader in scope, depends upon how the Federal exemption is interpreted. How to interpret the Federal exemption currently is under review. Thus, consideration of this matter is deferred. EPA Region I will address in a future authorization rulemaking action whether this amendment should be authorized as equivalent to (or more stringent than) the Federal regulations, or should be classified as broader in scope.

It should be emphasized that any decision regarding whether to Federally authorize this amendment affects only whether it can be Federally enforced. The State regulations are in effect now and are enforceable under State law. Thus all regulated entities in Rhode Island must comply with them now. In particular, as specified in the State regulations, even those entities that have water permits covering their zero discharge units must also comply with the State hazardous waste requirements (if they have hazardous wastewaters or sludges). Persons with questions about how to comply with these new State requirements are encouraged to contact the RIDEM directly.

The other amendments that the State has made to the Federal WWTU exemption language are being authorized now, as explained in item 3, below.

1. More Stringent Provisions

There are aspects of the Rhode Island program which are more stringent than the Federal program. All of these more stringent requirements are, or will become, part of the Federally enforceable RCRA program when authorized by the EPA and must be complied with in addition to the State requirements which track the minimum Federal requirements. These more stringent requirements include the following:

First, as determined in our 2002 rulemaking action, Rhode Island is more stringent with regard to the regulation of Federal small quantity generators (SQGs) and Federal conditionally exempt small quantity generators (CESQGs). This is because Rhode Island regulates all hazardous waste generators using its full RCRA generator (LQG level) regulations, with some exceptions. Consistent with our 2002 rulemaking which authorized the basic Rhode Island regulations governing SQGs and CESQGs as more stringent, the EPA is today determining that certain recently added revisions to the Rhode Island regulations which reference these more stringent requirements are "more stringent." EPA is not reopening our 2002 determination to authorize the basic Rhode Island regulations governing SQGs and CESQGs as more stringent.

Second, Rhode Island regulates farmers disposing of used pesticides under its universal waste rule. This is more stringent than the EPA approach of exempting farmers from most RCRA requirements so long as the conditions in 40 CFR 262.70 are met.

Third, Rhode Island has not adopted the Federal conditional exemption in 40 CFR 261.4(a)(14) for shredded circuit boards being recycled. Instead, Rhode Island is regulating shredded circuit boards being recycled under its universal waste rule requirements for used electronics. This also is more stringent.

Fourth, Rhode Island does not allow the disposal of hazardous wastes through injection wells or the ocean disposal of hazardous wastes. This is more stringent than the EPA approach of allowing such disposals under RCRA permit-by-rule requirements.

Fifth, Rhode Island never adopted special regulations for Performance Track facilities. This is more stringent than the EPA regulations which have allowed special standards regarding some requirements for performance track facilities. It also should be noted that the EPA recently has terminated the performance track program. Thus Rhode Island's approach actually is now equivalent to the current EPA approach, rather than more stringent.

Sixth, Rhode Island regulates, more strictly and extensively than EPA, temporary storage of wastes by transporters and temporary transfer and storage facilities. Under the Federal regulations, temporary storage by transporters is allowed subject to the conditions that the hazardous wastes be stored in containers and for no more than 10 days. Rhode Island is imposing additional requirements including more detailed storage requirements, closure plans and financial assurance requirements, and a requirement to obtain State authorization for temporary transfer and storage facilities. Also, Rhode Island is setting a 72-hour plus Sundays and holidays time limit on storage, as opposed to the Federal 10-day time limit. The State requirements all are more stringent, other than the State application fee requirement which is broader in scope—see below.

Seventh, Rhode Island amended its regulation 5.2 A. in 2001 to specify that generators must keep inspection logs (in accordance with 265.15(d), in addition to meeting the minimum Federal requirement for generators (specified in 264.174, as incorporated by reference by 262.34) of doing container area inspections. This inspection log requirement is more stringent. In our 2002 authorization rulemaking, EPA authorized all of Rule 5.0 including this amendment, with respect to Federal SQGs and CESQGs. We are today again reauthorizing Rule 5.2 A. including the 2001 amendment to make clear that the requirement to keep an inspection log

also is Federally enforceable in the case of Federal LQGs.

Eighth, Rhode Island specifies in its regulations 5.9 and 8.1 A.24 that generators and TSDFs, respectively, must submit to the State the names and signatures of all agents authorized to sign the hazardous waste manifest. These State requirements build on the Federal requirements regarding properly filling out the manifest, and thus are more stringent.

Ninth, Rhode Island does not allow standardized RCRA permits, research, development and demonstration (RD & D) permits and land treatment demonstration permits. Instead, Rhode Island requires full RCRA permits where the Federal regulations would allow these kinds of permits. This is more stringent.

Tenth, there are other more minor differences between the Federal and State programs, where the State is being more stringent. In particular, the State has various more stringent provisions relating to the technical standards for TSDFs. These more stringent provisions are listed in the Checklists submitted by the State, which are part of the administrative record. Examples of these more stringent provisions are discussed in the memorandum entitled "More Stringent and Broader in Scope Determinations Made in 2010 Rhode Island RCRA Program Authorization," which also has been placed in the administrative record.

2. Broader in Scope Provisions

There also are aspects of the Rhode Island program which are broader in scope than the Federal program. The State requirements (or portions of State requirements) which are broader in scope are not considered to be part of the Federally enforceable RCRA program. However, they are fully enforceable under State law and must be complied with by sources in Rhode Island. These broader-in-scope provisions include the following:

First, Rhode Island regulates as hazardous wastes certain PCB wastes that are regulated at the Federal level under the Toxic Substances Control Act (TSCA) rather than RCRA. As determined in our 2002 rulemaking action, these State regulations are broader in scope. The State recently has adopted regulations (i) specifying that it does not exempt PCB incineration facilities from its RCRA permit requirement and (ii) granting an exemption from certain hazardous waste transportation requirements to certain utilities handling the PCB wastes. Consistent with our 2002 authorization decision that the State's regulations covering PCB wastes generally are broader in scope, we are today classifying these new regulations as broader in scope.

Second, EPA unconditionally exempts from hazardous waste regulation scrap metal being recycled. In guidance, EPA has classified intact circuit boards as scrap metal, when they do not contain mercury switches, mercury relays, nickel-cadmium batteries or lithium batteries. Rhode Island has decided to regulate circuit boards, as used electronics under its universal waste rule, even when EPA excludes them from regulation under the scrap metal exemption. To the extent that the State is regulating circuit boards that the EPA does not regulate, this is broader in scope.

Third, the State is regulating as hazardous wastes both 'coal ash' and petroleum-contaminated media and debris. These are currently excluded from Federal RCRA regulation, although the EPA is now considering whether to regulate 'coal ash' as a Federal hazardous waste. Thus these State regulations (currently) are broader in scope.

Fourth, manufactured gas plant (MGP) waste is excluded from the TCLP testing requirement and thus in effect excluded from hazardous waste regulation, by Federal regulation 261.24. While also excluding MGP waste when certain conditions are met, Rhode Island is continuing to regulate this waste stream when those conditions are not met. This State regulation also is broader in scope.

Fifth, Rhode Island generally follows the Federal RCRA exemption for household hazardous waste. However, Rhode Island regulates facilities which accept household hazardous wastes, as generators, under its hazardous waste regulations. These State regulations are broader in scope.

Sixth, in its universal waste program, Rhode Island regulates certain dry cell batteries (i.e., waste-nickel cadmium, mercuric oxide, and lead acid dry cell batteries), used electronics, mercury containing equipment and mercury-containing lamps, even when they are not Federal hazardous wastes. To the extent, and only to the extent, that Rhode Island is regulating as universal wastes particular materials that are not Federal hazardous wastes, it is being broader in scope. The broader-in-scope wastes include materials which pass the TCLP test (*e.g.,* fluorescent bulbs with very low levels of mercury) and materials that for other reasons are not classified as Federal solid and hazardous wastes (*i.e.,* CRTs that have met the Federal conditions for being excluded from the definition of solid waste). Rhode Island also is broader in scope in that it regulates certain wastes as universal wastes even when they are generated by households. *See* Rule 13.5 E. The result is that under State law these wastes generally must be disposed through household hazardous waste collection programs.

Seventh, as part of the current update of its regulations, Rhode Island is specifying the fees that it charges for TSDF permit applications and for applications for Transporter Temporary Transfer and Storage Facilities. These regulations are broader in scope.

3. Equivalent but Different Provisions

While many State regulations track Federal requirements identically or on a line-by-line basis, some differ from the Federal regulations in ways that nevertheless are equivalent to the Federal regulations in providing the same overall level of environmental protection with respect to each Federal requirement. There are various Rhode Island regulations which differ from but have been determined to be equivalent to the Federal regulations. These regulations are part of the Federally enforceable RCRA program. These different but equivalent requirements include the following:

First, as part of its current update of its regulations, Rhode Island has amended the language regarding the Federal exemption for wastewater treatment units (WWTUs) in 40 CFR 270.1(c)(2)(v) and 40 CFR 264.1(g)(6), rather than simply incorporating these Federal provisions by reference. *See* Rules 7.0 B.8. and 8.1 A.6. As explained above, the decision regarding how to classify and whether to authorize the Rhode Island amendment regarding zero discharge units is being deferred. As explained below, the other Rhode Island amendments are different from but equivalent to the Federal regulations.

In Rule 7.0 B.8.(a) and 8.1 A.6.(a), the State specifies that for purposes of its RCRA regulations, WWTUs are defined as units that are handling hazardous wastes. The State's language is equivalent to a portion of the Federal definition of WWTU in 40 CFR 260.10.

In Rule 7.0 B.8.(b) and 8.1 A.6.(b), the State specifies that WWTUs may only be used to legitimately treat wastewaters as defined at 47 FR 4706 (Feb. 2, 1982). The State regulations further specify that the disposal of concentrated wastes down the drain into WWTUs is prohibited. In the above 1982 **Federal Register** document incorporated by reference by the State regulations, the EPA also has interpreted the WWTU exemption as not allowing for the dumping of concentrated wastes down

the drain (into WWTUs). Thus, this State amendment also is equivalent to the Federal regulations (as interpreted).

In Rule 7.0 B.8.(c) and 8.1 A.6.(c), the State specifies that the WWTU exemption applies only to tank systems, and not to wastewaters when stored or transported in containers. For example, if a company generates a hazardous wastewater and stores it in containers before pouring the wastewaters from the containers into a wastewater treatment tank, the container storage will be regulated by RCRA. This also is equivalent to the Federal regulations, which also limit the WWTU exemption to tanks and tank systems. *See* 40 CFR 260.10.

In Rule 7.0 B.8(d) and 8.1 A.6(d), the State specifies that for facilities sending their hazardous wastewaters to surface waters or the sewers, the exemption applies only when the discharge point is "on site." Thus, for example, if a generator plans to truck hazardous wastewaters to a POTW, it must handle them in accordance with the generator requirements while on site, and must ship them under manifest. EPA has interpreted the Federal WWTU exemption in this same way. Thus, this State amendment is equivalent to the EPA regulations (as interpreted).

In Rule 7.0 B.8.(e) and 8.1 A.6.(e), the State specifies that the WWTU exemption applies only to those units that have 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 water program regulation. Under the Federal regulations, the exemption similarly is limited to those units that are part of wastewater treatment facilities that are subject to regulation under section 402 or 307(b) of the Clean Water Act. The State amendment is designed to ensure that companies are including under the exemption only units that legitimately are part of their wastewater treatment facilities. Thus, the State amendment helps to ensure that there is compliance with the Federal provision. Thus, the State amendment is equivalent to (or more stringent than) the Federal provision, as opposed to being broader in scope.

Finally, the State regulations specify at the end of Rules 7.0 B.8. and 8.1 A.6. that any hazardous wastes generated from a WWTU must be managed in accordance with the State's hazardous waste requirements, once it leaves the exempt WWTU, e.g., when a sludge is stored in containers on site. This also is consistent with the way in which the Federal regulations have been interpreted. Thus this State provision also is equivalent to the Federal regulations (as interpreted).

Another way in which the Rhode Island regulations are different from but equivalent to the Federal regulations relates to the regulation of universal wastes. In addition to the batteries, pesticides, mercury containing equipment and mercury containing lamps (fluorescent bulbs) regulated by the EPA as universal wastes, Rhode Island is regulating used electronics (including cathode ray tubes and circuit boards) and silver-containing photo fixing solutions as universal wastes. Except when applied to materials that are not Federal hazardous wastes—see discussions under item 2, above, these Rhode Island regulations are equivalent to the Federal regulations rather than being broader in scope. Except as described under item 2 above, Rhode Island is regulating materials that also are regulated by the EPA in the hazardous waste program. The EPA also believes that such State regulations are not less stringent than the EPA regulations. Although Rhode Island is regulating as universal wastes some materials that are regulated as full hazardous wastes under the Federal regulations, Rhode Island has the authority as an authorized State to classify appropriate materials as universal wastes, subject to having appropriate State management standards. Just as the EPA may add additional wastes to its universal waste rule through the Petition Process set forth in 40 CFR part 273, subpart G, an authorized State may add additional universal wastes to its universal waste rule through an equivalent process. EPA Region I has reviewed the State's proposals to include used electronics and silver-containing photo fixing solutions as universal wastes, and agrees that these wastestreams are appropriate for inclusion as universal wastes and that Rhode Island has adopted appropriate protective management standards for these wastes.

I. How does today's action affect Indian country (18 U.S.C. 115) in Rhode Island?

Rhode Island is not authorized to carryout its hazardous waste program in Indian country within the State which includes the land of the Narragansett Indian Tribe. Therefore, this action has no effect on Indian country. EPA will continue to implement and administer the RCRA program in these lands.

J. Who handles permits after the authorization takes effect?

Rhode Island will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer and enforce any RCRA and HSWA (Hazardous and Solid Waste Act) permits or portions of permits which it has issued in Rhode Island prior to the effective date of this authorization until the State incorporates the terms and conditions of the Federal permits into the State RCRA permits. EPA will not issue any more new permits, or new portions of permits, for the provisions listed in this document above after the effective date of this authorization. EPA will continue to implement and issue permits for any HSWA requirements for which Rhode Island is not yet authorized.

K. What is codification and is EPA codifying Rhode Island's hazardous waste program as authorized in this rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart UU for this authorization of Rhode Island's program until a later date.

L. Administrative Requirements

The Office of Management and Budget has exempted this action (RCRA State Authorization) from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993); therefore, this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this action also does not significantly or uniquely affect Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various

levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This action nevertheless will be effective 60 days after it is published, because it is an immediate final rule.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: July 7, 2010.

H. Curtis Spalding,

Regional Administrator, EPA New England.

[FR Doc. 2010–18235 Filed 7–23–10; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2010–0003]

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated in the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Kevin C. Long, Acting Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2820, or (e-mail) *kevin.long@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Federal Insurance and Mitigation Administrator has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This final rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This final rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.