

MEMORANDUM OF AGREEMENT
BETWEEN
THE STATE OF *Rhode Island*
AND
THE REGION I OFFICE OF
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
FOR ADMINISTRATION OF THE RCRA HAZARDOUS WASTE PROGRAM

I. PURPOSE AND SCOPE

This Memorandum of Agreement (Agreement) is entered into by the *Rhode Island* (the State) and the U.S. Environmental Protection Agency, Region I (EPA) to establish responsibilities and procedures for the administration of the hazardous waste management program (Program) in *Rhode Island*. The *Rhode Island* has been authorized to administer the Program under section 3006 of the Resource Conservation and Recovery Act (RCRA) of 1976 (42 U.S.C. 6901 *et seq.*), as amended (Public Laws 94-580, 96-482, 98-616), and this agreement has been developed pursuant to 40 CFR 271.8 to address the full range of Program activities. (For purposes of this agreement, references to “RCRA” include the Hazardous and Solid Waste Amendments of 1984 (HSWA) (P.L. 98-616)).

Specifically, this Agreement sets forth the manner in which the *Rhode Island* and the EPA will coordinate and communicate in the State’s administration and enforcement of the federally authorized *Rhode Island* Program, and in the EPA’s administration and enforcement of the provisions of the Hazardous and Solid Waste Amendments (HSWA) for which the state is not yet authorized. The Agreement addresses the full scope of the RCRA Program, including, but not limited to, these elements:

- Permitting Program - safely managing wastes with appropriate controls;
- Corrective Action - cleaning up sites where releases have occurred; and
- Compliance Assurance - compliance assistance, inspections and enforcement

This Agreement is entered into by the Director of the *Rhode Island Department of Environmental Management* (hereinafter “the State” or “Director”) and the Regional Administrator, EPA Region I (hereinafter “Regional Administrator” or “EPA”). The Rhode Island Department of Environmental Management is the lead agency for implementing the State program and for coordination and communication between the State and EPA.

Nothing in this Agreement shall be construed to restrict in any way EPA's authority to fulfill its oversight and enforcement responsibilities under RCRA. Nothing in this Agreement shall be construed to contravene any provision of 40 CFR Part 271. This Agreement does not create any rights in persons not parties to this Agreement (e.g., any departure from this Agreement shall not be a defense for regulated parties in violation of environmental requirements).

This Agreement may be modified upon the initiative of either party in order to ensure consistency with State program modifications made or for any purpose mutually agreed upon. Disagreements regarding modification of this Agreement shall be promptly and appropriately elevated within each organization. Any revisions or modifications to this Agreement must be in writing and must be signed by the Director and the Regional Administrator. This Agreement will remain in effect for as long as the State's Program authorization remains effective or until superseded.

This Agreement is being executed because the State is seeking authorization for numerous program changes. This Agreement shall be executed by the State and the Regional Administrator and shall become effective at the time the State's updated authorization takes effect, which shall be the date specified in the Federal Register notice of the Regional Administrator's decision to grant authorization to the State. The Agreement supersedes all previous RCRA Memorandum of Agreements including that of March 21, 1991.

II. ROLES, RESPONSIBILITIES AND AUTHORITIES

Each of the parties to this Agreement is responsible for ensuring that its obligations under RCRA are met. Upon granting of final authorization by EPA, the State assumes primary responsibility for implementing the authorized provisions of the RCRA hazardous waste program within its boundaries. The State will conduct its hazardous waste program in accordance with EPA program policies and guidance. EPA retains its responsibility to ensure full and faithful execution of the requirements of RCRA, including full oversight and enforcement authority. Section 3006(g) of RCRA provides that hazardous waste requirements and prohibitions promulgated pursuant to HSWA are applicable in authorized States at the same time that they are applicable in unauthorized States. While EPA retains responsibility for the direct implementation of those provisions of HSWA which the State is not authorized to implement, it is the intention of EPA and the State to coordinate the implementation of such provisions to the greatest degree possible.

The State and EPA agree to maintain a high level of cooperation and coordination between their respective staffs in a partnership to assure successful and effective administration of the State program.

A. STATE

The State will seek to identify, advance efforts and implement directives to ensure uniform treatment of all *Rhode Island* citizens with respect to matters involving public health and the environment. Accordingly, the State shall conduct its hazardous waste program, policies, and activities in a manner that ensures that such program, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under such programs, policies, and activities, because of their race, color, national origin, or economic status.

The State agrees to implement the RCRA Program in a manner that ensures the statutory and regulatory requirements of RCRA are met. When the State develops its own rules, policies and guidance related to RCRA, it will consult with the EPA to ensure that the State's Program meets the statutory and regulatory requirements of the federal RCRA Program.

B. EPA

EPA will oversee implementation of the authorized State program in order to ensure full execution of the requirements of RCRA, to promote national consistency in implementation of the hazardous waste program, to allow EPA to report to the President and Congress on the achievements of the hazardous waste program, and to encourage States and EPA to agree on desirable technical support and targets for joint efforts to prevent and mitigate environmental problems associated with the improper management of hazardous wastes. EPA will conduct oversight through written reporting requirements, permit overview, corrective action overview, compliance and enforcement overview, and the outcomes of the annual Performance Partnership Agreement.

C. OTHER FEDERAL LAWS THAT MAY APPLY

The EPA retains responsibility for administration and enforcement of other federal laws that may apply to the implementation of the Program, particularly to the issuance of permits (see 40 CFR 270.3). The EPA and the State agree to coordinate to the greatest degree possible on any permit actions to which the following laws may, but not limited to, apply: The Wild and Scenic Rivers Act, 16 U.S.C. 1273, *et seq.*; the National Historic Preservation Act of 1966, 16 U.S.C. 470, *et seq.*; the Endangered Species Act of 1966, 16 U.S.C. 1531, *et seq.* (including the consultation provision of section 7); the Oil Pollution Act of 1990, 33 U.S.C. 2701 *et seq.*; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11001 *et seq.*; the Toxic Substances Control Act of 1976, 15 U.S.C. 2601, *et seq.*; and the Fish and Wildlife Coordination Act, 16 U.S.C. 661 *et seq.*

III. PROGRAM MANAGEMENT

The State and EPA agree to develop, on an annual basis as a part of the State Performance Partnership Agreement (PPA), criteria for priority activities including activities regarding handlers of hazardous waste. These criteria will be based on the relevant goals of the Government Performance Results Act ("GPR") and other guidance documents as may be appropriate, and will serve to identify those activities which should receive the highest priority during the grant period. Examples of activities which will be considered high priority will include, but not be limited to, facilities to be inspected, facilities to be permitted, advancement of corrective action cleanups, and enforcement against facilities with known or suspected groundwater contamination.

The agencies will also develop criteria or standards as needed to document achievement

of Program goals. These criteria will form the basis for oversight of the Program by the EPA (see section VIII).

IV. PERMITTING, CLOSURE AND POST-CLOSURE

The permitting program in RCRA includes the closure and post-closure functions for treatment, storage and disposal facilities (TSDFs) that are ceasing operations, and the operating permit function for TSDFs that continue to operate.

A. STATE PERMITTING

Because it is authorized under RCRA, the State has the primary role in issuing, modifying and/or reissuing all permits and in approving and verifying all closure or post-closure activities in accordance with Program requirements.

The State will review all hazardous waste permits that were issued under state law prior to the effective date of any newly authorized permit requirements and will modify, or revoke and reissue, any permits which do not meet the new permit requirements.

The State will consider all EPA comments on permit applications and draft permits. Pursuant to 40 CFR 271.19(d), the State will satisfy or refute the EPA's concerns on a particular permit application, proposed permit modification or draft permit, in writing, before issuing the permit or making the modification.

B. EPA PERMITTING

Pursuant to section 3006(g)(1) and in accordance with RCRA, as amended, EPA has the authority to issue or deny permits or those portions of permits to facilities in State for the requirements and prohibitions in or stemming from HSWA until the State amends its program to reflect those requirements and prohibitions and receives authorization for those amendments

Upon authorization of new permit requirements, the EPA will suspend issuance of federal permits for TSDFs for which the state is receiving authorization.

C. JOINT PERMITTING

EPA and the State agree, when appropriate, to a joint permitting process. Under this process, EPA and the State will establish policies and procedures by which each will pursue their respective and/or joint responsibilities under RCRA. EPA and the State agree to the sharing of information for the purpose of joint permitting. Specifically included shall be the procedures for sharing and coordinating the exchange of information on the following:

- Part A and Part B permit applications, whether received prior to the effective date of this Agreement or subsequent to the effective date of this Agreement and

whether first received by the State or EPA;

- Such other information necessary to support the foregoing information;
- Copies of draft permits, proposed permit modifications, and public notices;
- Copies of final permits and permit modifications; and
- Notices of permit denials.

D. EPA OVERVIEW OF STATE PERMITS

While EPA may comment on any permit application or draft permit, EPA's overview function will focus primarily on those facilities identified by the State and EPA in the Performance Partnership Agreement.

Although EPA and the State will attempt to resolve any outstanding EPA concerns prior to the public comment period, EPA may comment in writing on any draft permit or proposed permit modification undergoing public comment, whether or not EPA commented on the permit application or prior drafts of the permit or permit modification, within 45 days of EPA's receipt of the draft permit or proposed permit modification which is undergoing public comment. Where EPA indicates in a comment that issuance, modification, reissuance, termination, or denial of the permit would be inconsistent with the approved State program, EPA shall include in the comment:

- A statement of the reasons for the comment (including the section of the law or regulations that supports the comment);
- The actions that should be taken by the State in order to address the comment (including the conditions which the permit would include if it were issued by EPA); and
- For any comment that is significant enough for EPA to take action against the holder of the permit after issuance under section 3008 of RCRA (refer to the Section VI. B. of the Agreement), a statement that it is necessary for a condition(s) to be included in the permit to implement approved State program requirements and that, if the condition(s) is/are not included in the permit, EPA may take action under section 3008 of RCRA against the permit holder for not complying with such condition(s).

EPA shall also send a copy of its written comments to the applicant.

EPA shall withdraw such comments when satisfied that the State has met or refuted its concerns and shall also provide the permit applicant with a copy of such withdrawal.

The State and EPA agree to meet or confer whenever necessary to resolve a disagreement between their staffs on the terms of any hazardous waste permit to be issued by the State.

Under section 3008(a)(3) of RCRA, EPA may terminate a State-issued permit or bring an enforcement action in accordance with the procedures of 40 CFR Part 22 in the case of a violation of a State program requirement. In exercising these authorities, EPA will observe the conditions established in 40 CFR 271.19(e).

V. CORRECTIVE ACTION

EPA oversight of State corrective action decisions will be performed on an on-going basis throughout each year and will be in accordance with work sharing responsibilities established in the Performance Partnership Agreement. The State agrees to work cooperatively with EPA in achieving EPA's 2020 GPRA corrective action goals and goals established for post 2020, which currently includes environmental indicators, site assessments, site-wide remedy selection, site-wide construction completes and any additional program milestones or initiatives identified as a priority. As the RCRA Corrective Action program matures and nears 2020, EPA is currently strategizing on how to prioritize current and new programmatic goals and initiatives for the post-2020 era. For example, Long-Term Steward at corrective action sites will be a priority and EPA will seek to work cooperatively with the state in this area. Work will be detailed in the Performance Partnership Agreement. The State will submit to EPA copies of key corrective action documents (e.g., approvals of reports/work plans, disapproval comment letters, permit modifications, permits, orders, environmental indicator checklists, statements of basis for proposed remedy, final remedy decisions, milestone attainment determinations) or the state equivalent document where appropriate and agreed upon. The State will ensure that Financial Assurance is in place at all corrective action sites, where applicable. The State will consider EPA comments in final corrective action decisions and will submit copies of all final corrective action decision documents to EPA.

The State will conduct the Corrective Action Program in a manner that promotes rapid achievement of cleanups while protecting human health and the environment. Specifically, the State will, to the extent practicable:

- Embrace flexible, practical, results-based approaches that focus on control of human exposure and contaminated groundwater migration in the short term, with final cleanup being the long term goal;
- Provide ready public access to information and meaningful opportunities for public involvement in the cleanup process;
- Foster a culture of innovation, creativity, communication, and technical expertise, focused on accelerating cleanups and meeting program goals; and
- Carefully consider key program guidance (and any updates) in conducting the Corrective Action Program.
- Accept the transfer of EPA lead facilities to the state when the remedy is implemented and the facility is in Operations and Maintenance of the remedy or another agreed upon point in the corrective action process.

EPA will assist the State with all aspects of the Corrective Action Program and support its efforts to conduct faster, focused, and more flexible hazardous waste cleanups.

VI. COMPLIANCE ASSURANCE

The compliance assurance element of the Hazardous Waste Program includes the compliance assistance, inspection and enforcement functions. These functions are performed by both agencies as follows:

A. STATE

The State agrees to carry out a timely and effective program for monitoring compliance by generators, transporters, and facilities with applicable program requirements (see 40 CFR 271.15). As part of this program, the State will conduct inspections to assess compliance with generator and transporter standards (including manifest requirements), facility standards, permit requirements, compliance schedules, and all other program requirements.

Enforcement and Compliance monitoring activities and priorities shall be consistent with all applicable Federal requirements and with the State's Program Description and will be negotiated annually and documented in the Performance Partnership Agreement workplan.

The State agrees to take timely and appropriate enforcement action in accordance with EPA's December 2003 Hazardous Waste Civil Enforcement Response Policy, or any revisions thereto, against all persons in violation of generator and transporter standards (including manifest requirements), facility standards, permit requirements, compliance schedules, and all other program requirements, including violations detected by State or Federal compliance inspections. The State will maintain procedures for receiving and ensuring proper consideration, information, and response regarding violations submitted by the public.

The State agrees to provide EPA with copies of reports on data resulting from any compliance inspection and subsequent enforcement actions, when EPA requests such copies. The State agrees to retain all records for at least three years unless there is an enforcement action pending. In that case, all records will be retained for three years from the date such action is resolved.

B. EPA

Nothing in this Agreement shall restrict EPA's right to inspect any hazardous waste generator, transporter, or facility or bring enforcement action against any person believed to be in violation of the State or Federal hazardous waste programs or believed to have a release of hazardous wastes or constituents. Before conducting an inspection of a generator, transporter, or facility, EPA will normally give the State at least seven days' notice of the intent to inspect in accordance with 40 CFR 271.8(b)(3)(i) and will invite the State to participate in the inspection. In case of an imminent hazard to human health and the environment, EPA may shorten or waive the notice period. The EPA and State may agree to a longer period of time in order to allow the State an opportunity to conduct a joint inspection with EPA, or, if agreed, an inspection in lieu of EPA. EPA agrees to make available to the State copies of any reports and data resulting from compliance inspections within a reasonable time from completion of the inspections.

The frequency of EPA oversight and training inspections will be specified in the Performance Partnership Agreement. The number or percentage of the State's

compliance inspections on which EPA will accompany the State will be specified in the Performance Partnership Agreement, or on an as needed basis.

This Agreement is not meant to restrict or limit EPA's oversight and enforcement authorities under RCRA. Any discussion of EPA or State roles and responsibilities is intended to guide EPA and State personnel in carrying out an effective partnership, but is not meant to make the State EPA's agent for purposes of enforcement or to restrict or limit EPA's direct enforcement authority under RCRA. EPA may take enforcement action against any person determined to be in violation of RCRA in accordance with section 3008(a)(2). In particular, EPA may take enforcement action upon determining that the State has not taken timely and appropriate enforcement action or upon request by the State. EPA will promptly notify the State of its determination and agrees to meet with the State to discuss appropriate resolution. Prior to issuing a compliance order under section 3008(a) of RCRA, EPA will give notice to the State. EPA also retains its rights to issue orders and bring actions under sections 3008(h), 3013 and 7003 of RCRA and any other applicable Federal statute.

EPA maintains authority to bring action and may take action, after notification to the State, under section 3008 of RCRA against a holder of a State-issued permit on the grounds that the permittee is not complying with a condition of that permit. In addition, EPA may take action under section 3008 of RCRA against a holder of a State-issued permit on the grounds that the permittee is not complying with a condition that EPA, in commenting on that permit application or draft permit, stated was necessary to implement approved State program requirements, whether or not that condition was included in the final permit.

EPA will promptly notify the State of any information submitted by the public concerning the mismanagement of hazardous waste in *Rhode Island*.

VII. INFORMATION MANAGEMENT AND SHARING

This section of the agreement addresses how the agencies will manage and share information on the status and progress of the Program. The State and the EPA both agree to make information available to each other in accordance with 40 CFR 271.17.

A. General

The State agrees to inform the Regional Administrator of any proposed program changes that would affect the State's ability to implement the authorized program with as much advance notice as possible. Program changes of concern include modification of the State's legal authorities (i.e., statutes, regulations and judicial or legislative actions affecting those authorities), modifications of Memoranda of Agreement or Understanding with other agencies, and modifications of resource levels (i.e., available or budgeted personnel and funds). Program changes also include legal changes that would affect compliance monitoring and enforcement, such as privileges and immunity laws. The State recognizes that program revisions must be made in accordance with the provisions

of 40 CFR 271.21, and that, until approved by EPA, revisions are not authorized as RCRA Subtitle C requirements. EPA agrees to support the State with timely input on proposed State legislation that might have a significant potential to affect the authorized hazardous waste program.

So that EPA can provide overview of State permits, the State agrees to provide EPA with copies, electronic or paper, of draft and final State permits, and draft and final Class 2 and Class 3 State permit modifications. The State agrees to provide this information with sufficient time prior to the public comment period to allow EPA the opportunity to identify and provide comment on any significant EPA concerns before the comment period opens.

The State agrees to provide EPA with copies of reports and data resulting from any compliance inspection and subsequent enforcement actions, when EPA requests such copies.

The State agrees to provide any pertinent information requested by the Regional Administrator or designee within a mutually agreed upon time frame, as necessary for EPA to carry out its oversight responsibilities.

EPA will keep the State informed of the content and meaning of Federal statutes, regulations, guidelines, standards, policy decisions, directives, and any other factors that affect the State program. EPA will also provide general technical guidance to the State. EPA will share with the State any national reports developed by EPA from the data submitted through State reporting requirements.

EPA agrees to make copies of any reports and data resulting from compliance inspections conducted by EPA, except for enforcement confidential criminal program inspections, available to the State within response time guidelines established by EPA's "Hazardous Waste Civil Enforcement Response Policy". If the time guideline cannot be met for a particular inspection, EPA agrees to notify the State before the designated amount of time elapses.

EPA will make available to the State other relevant information, as requested, that the State needs to implement its approved program. Information provided to the State will be subject to the terms of 40 CFR Part 2, as described in D below.

Through development of the Performance Partnership Agreement, EPA and the State will agree on the type and frequency of reports the State will make in order for EPA to maintain oversight of the implementation of the State's authorized program. Such reporting shall include, but not be limited to, the following:

- Compliance monitoring and enforcement information, and information indicating the status of the State's permitting, closure, post-closure, and corrective action activities; and
- Various reports designed to accurately describe the status of the State's authorized program, including biennial reports summarizing the quantities and

types of hazardous waste generated, transported, treated, stored, and disposed of in the State.

B. Notification

So that EPA can maintain a national inventory of all hazardous waste handlers, the State agrees to enter all new or subsequent Notification Information into RCRAInfo. The State is responsible for receiving, processing, and verifying information on notification forms.

EPA and the State have jointly decided that the State will assign all EPA I.D. numbers and enter all notification data into RCRAInfo. If the applicant sends a notification form (8700-12 or equivalent) directly to EPA, EPA will forward the form to the State for the assignment of an I.D. number within 30 days of receipt. If the State receives a notification form from EPA or from the applicant, the State will assign an I.D. number to the applicant and inform the applicant of its number.

C. RCRA Data Management

The State agrees to use, maintain, and enter or translate data into the national RCRA data management system (currently RCRAInfo).

The State is responsible for the correctness of the data it enters or translates. The State will timely correct any State data errors in RCRAInfo. The State will provide all core data to RCRAInfo, as defined by EPA Headquarters, plus non-core data as agreed to with Region I program offices. EPA is responsible for the correctness of the data it enters and will timely correct any data errors that EPA has created.

The State will run data assessment reports provided by EPA on the Region I RCRAInfo Reports menu at least once a quarter and make indicated corrections promptly.

The State will collect Biennial Reporting (BR) data, ensure its accuracy, and provide the data to EPA by using RCRAInfo to process this information or by translating/loading it into RCRAInfo. The collection and processing of the BR data should be done according to the schedule promulgated by EPA Headquarters.

EPA will inform the State promptly when changes are made to RCRAInfo that might affect the State's implementation of RCRAInfo. EPA will assist the State in RCRAInfo consulting and training as resources allow.

EPA will help the State maximize usefulness of RCRAInfo data by enhancing existing reports or writing new report programs to fit specifications of the State. These reports will be found in the Region I reporting tool, RCRAREp.

EPA will assist the State with the translation of RCRAInfo data.

D. AVAILABILITY AND CONFIDENTIALITY OF INFORMATION

1. General

Section 3006(f) of RCRA provides that States may be authorized by the Regional Administrator under section 3006 only if the State program provides for the public availability of information obtained by the State regarding facilities and sites for treatment, storage and disposal of hazardous waste and that such information is available to the public in substantially the same manner and to the same degree as would be the case if the Regional Administrator were carrying out the provisions of Subtitle C of RCRA in the State.

2. Availability of Information to the Public

The State agrees to make information available to the public in accordance with section *the Rhode Island Access to Public Records Act (Rhode Island General Law 38-2)*.

The EPA agrees to make information available to the public in accordance with federal requirements at 40 CFR Part 2.

3. Confidentiality

Any information obtained or used in the administration of the State program shall be available to EPA upon request without restriction. If the information has been submitted to the State under a claim of confidentiality, the State must submit that claim to EPA when providing information. Any information obtained from a State and subject to a claim of confidentiality will be treated in accordance with the regulations in 40 CFR Part 2, Public Information.

EPA agrees to furnish to the State information in its files which is not submitted under a claim of confidentiality and which the State needs to implement its program. Subject to the conditions in 40 CFR Part 2 (including authorization to receive confidential information pursuant to 40 CFR 2.305(h)), EPA will furnish to the State information submitted to EPA under a claim of confidentiality which the State needs to implement its program. All information EPA agrees to transfer to the State will be transferred in accordance with the requirements of 40 CFR Part 2. EPA will notify affected facilities when such information is sent to the State. The State will handle such information consistent with its laws, which will be reviewed by EPA pursuant to 40 CFR 2.305(h) prior to furnishing the State confidential information.

E. SPECIAL SITUATIONS

The following information sharing provisions apply to special situations:

1. Emergency Situations

Upon receipt of any information that the handling, transportation, storage, treatment, or disposal of hazardous waste is endangering human health or the environment, the party in

receipt of such information shall notify the other party(ies) to this agreement as soon as possible, by telephone, of the existence of such a situation. Notification to the state will be provided to the Division Director, Program Manager or the State Emergency Management Agency. Notification to EPA will be provided to a manager in either the Resource Conservation and Recovery Program or the Technical Enforcement Program, Region I or the National Response Center.

2. Site Visits to Support the National RCRA Program

The EPA may require site-specific information to fulfill its duties in the development and management of the national RCRA Program. If the EPA determines that information related to hazardous waste management in *Rhode Island* is required, the EPA will request the information from the State. The State agrees to supply the EPA with the information, if readily available and as resources allow. If the State is unable to provide the information, or if it is necessary to supplement the information, the EPA may conduct a special survey or perform information collection site visits after notifying the State (normally with at least seven days advance notice) and providing the State the opportunity to accompany the EPA personnel on such visits. The EPA will share with the State the data collected and any national reports developed by the EPA resulting from the information collected.

3. Delistings

EPA will continue to process delisting petitions; however, EPA agrees to include the State in all pre-petition discussions with petitioners and notify the State within a reasonable time of receiving a petition to delist a waste, pursuant to 40 CFR Part 260.22, from a specific facility in the State. The Director or designee will inform EPA in writing of the State's intent to participate in EPA's review and evaluation of the delisting petition. Delisting petitioners in the State will submit delisting petitions to the Regional Administrator. In the event that these petitions are submitted to the State in lieu of EPA, the State will retain a copy and immediately forward the petition to EPA. Should EPA require the assistance of the State in the review of the petition, this work sharing activity will be negotiated at the time the Performance Partnership Agreement is being negotiated, or subsequently as an additional element to be added to or substituted into the work plan.

EPA will notify the State prior to publishing a proposed delisting determination in the Federal Register and again notify the State when the final determination is made. A copy of the Federal Register Notice announcing EPA's tentative determination will be provided to the State. EPA will notify the State if any public comments are received on EPA's tentative determination and provide copies if requested. As necessary, and, if requested, EPA agrees to coordinate with the State in the development of any response to comments.

A copy of EPA's final determination on the petition, as published in the Federal Register, will be provided to the State. If the State concurs with an affirmative EPA decision on a delisting petition and grants a delisting pursuant to the applicable state requirements, the

Director agrees to follow appropriate state procedures to officially incorporate EPA's rulemaking decision into the State's program.

4. Waivers

Where the State program involves the granting of variances or waivers, the State agrees to provide EPA with a copy of each State variance or waiver at the time it is granted. Waivers shall be granted pursuant to- *250-RICR-140-10-1 Section 1.6* . To ensure consistency with Federal requirements, the State shall consult with the EPA, as appropriate, prior to granting waivers unless the State requirement being waived is more stringent.

VIII. PROGRAM REVIEW AND OVERSIGHT

EPA will assess the State administration and enforcement of the authorized hazardous waste program on a continuing basis for equivalence and consistency with RCRA, this Agreement, and all applicable Federal requirements and policies, and for adequacy of compliance monitoring and enforcement. EPA will conduct this assessment by reviewing information submitted by the State in accordance with this Agreement, the Performance Partnership Agreement, permit overview, and compliance and enforcement overview. EPA may also consider, as part of this regular assessment, written comments about the State's program administration and enforcement that are received from regulated persons, the public, and Federal, State, and local agencies. Copies of any such comments received by the Regional Administrator will be provided to the State.

The State agrees to allow EPA access to all files and other information requested by the Regional Administrator or designee and deemed necessary by EPA for reviewing State program administration and enforcement. File reviews may be conducted at any time.

EPA may conduct periodic program reviews with the State which may be scheduled as agreed to by the State. Such program review meetings between the State and EPA will be scheduled at reasonable intervals, at least annually, to review specific operating procedures and schedules, to resolve problems, and to discuss mutual program concerns. These meetings will be scheduled at least fifteen days in advance unless mutually agreed to differently. A tentative agenda for the meeting will be prepared by EPA. Such reviews may consist of file document reviews and discussions with staff and managers and may take place in either agency office with communications via telephone, e-mail, or in person. EPA agrees to direct questions and point out actual or potential deficiencies, if found, to management and to project staff or program coordinators. The State will notify EPA of actions it intends to take to correct any deficiencies identified by EPA within 30 days of EPA's notification. Any further follow up will be determined on a case-by-case basis.

The State agrees to keep EPA fully informed of any proposed modifications to its basic statutory or regulatory authority or procedures related to section 3006(f) of RCRA.

X. SIGNATURES

STATE OF *RHODE ISLAND*

Rhode Island Department of Environmental Management

BY: _____

Date: _____

Terrence Gray, P.E. Acting Director

Rhode Island Department of Environmental Management

***U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION I***

BY: _____

Date: _____

Deborah Szaro Acting Regional Administrator