

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

**DEPARTMENT OF ADMINISTRATION
OFFICE OF ENERGY RESOURCES**

STATEMENT OF NEED FOR EMERGENCY ACTION

In accordance with the provision of subsection (b) of R.I. Gen. Laws §42-35-3, as amended, I have approved rules and regulations entitled: “Energy Efficient Waste Water Treatment Facility Program The regulation has been promulgated pursuant to the authority contained in R.I. Gen. Laws § 42-140-9.

THIS REGULATION IS TO BECOME EFFECTIVE IMMEDIATELY UPON FILING WITH THE SECRETARY OF STATE’S OFFICE.

Such an effective date is necessary in light of a finding by the Interim-Commissioner of the Office of Energy Resources that any substantial delay might imperil the public health, safety, and welfare. That finding is based upon the following:

The State of Rhode Island was awarded Three Million One Hundred Thousand Dollars (\$3,100,000) under the American Recovery and Reinvestment Act of 2009-State Energy Program (“ARRA-SEP”) to support development of energy efficiency improvements in waste water treatment facilities in Rhode Island. The projects are intended to create and retain jobs in Rhode Island; to realize energy cost savings; to reduce dependence on non-renewable forms of energy, especially fuels imported from other nations; to achieve environmental benefits, especially reductions in greenhouse gases. These goals are essential to ensure the health, safety and welfare of the State of Rhode Island and for the benefit of the public.

Pursuant to the ARRA-SEP, the use and disbursement of said funds by the State are subject to strict time constraints, including the full expenditure of funds prior to March 31, 2012. Therefore, on or before March 1, 2011, the Rhode Island Office of Energy Resources (“OER”) must commence disbursement of funds for eligible projects.

Prior to disbursing any awards for these projects, the OER will need to promulgate rules and regulations regarding the administration and utilization of the ARRA-SEP funds. After the regulations are in effect, the OER must solicit applications for projects and review each submittal. The OER will then issue the awards and enter into contracts with each project applicant.

To complete this application and award process prior to the March 1, 2011 deadline, the first round of applications must be submitted on or before February 1, 2011. If the OER were to provide the notice and comment for these regulations as required by the Rhode Island Administrative Procedures Act, it would be impossible for the OER to commit these funds by March 1, 2011. Therefore, the immediate filing of these regulations is critical to meet the ARRA deadlines.

Signed,



Ronald N. Renaud
Interim-Commissioner
Office of Energy Resources

01.10.11
Date

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DEPARTMENT OF ADMINISTRATION

OFFICE OF ENERGY RESOURCES

**RULES AND REGULATIONS FOR THE ENERGY EFFICIENCY
WASTEWATER TREATMENT FACILITY PROGRAM**

[Regulation DOA-OER-WWTFP-1-2011]

JANUARY 2011

Section 1.0 FINDINGS.

1.1 Energy costs are a major expense in operating Wastewater Treatment Facilities and reductions in energy costs can benefit entities that pay for the use of Wastewater Treatment Facilities to treat their wastewater. Reductions in the energy costs of Wastewater Treatment Facilities can reduce sewer rates and can mitigate potential sewer rate increases.

1.2 Rhode Island has established statutory goals for achieving energy efficiency (e.g. Public Utilities Commission Act at RIGL §§ 39-1-27.7-1 *et seq.*) and for using renewable energy resources (e.g. Renewable Energy Standard Act at RIGL §§ 39-26-1 *et seq.*).

1.3 Rhode Island's municipal Wastewater Treatment Facilities collect and treat approximately 100 million gallons of Wastewater each day; treated Wastewater must meet increasingly strict parameters to protect water quality in Rhode Island's rivers and the Narragansett Bay, and as such these facilities have direct and immediate impacts on state and local economies and public health.

1.4 The U.S. Environmental Protection Agency has provided support through a "State Innovation Grant" to the Narragansett Bay Commission for Sustainable Energy Management programs in Wastewater Treatment Facilities in Rhode Island. The surveys conducted under the State Innovation Grant Project identified numerous opportunities for making energy efficiency improvements in Wastewater Treatment Facilities in Rhode Island and recommended technical assessment reviews as a next-step.

1.5 Floods in March-April 2010 severely damaged certain Wastewater Treatment Facilities in Rhode Island, and the rebuilding of damaged Wastewater Treatment Facilities provides an opportunity to improve their energy efficiency.

1.6 The R.I. Office of Energy Resources has received approval from the U.S. Department of Energy to allocate three million one hundred thousand dollars (\$3,100,000) of ARRA-SEP funds for energy efficiency improvements in Wastewater Treatment Facilities in Rhode Island and an Energy Efficiency Technical Assessment.

Section 2.0 PURPOSES.

The purposes of these rules and regulations are to:

2.1 Establish an Energy Efficiency Wastewater Treatment Facility Program in Rhode Island.

2.2 Reduce the energy costs of Wastewater Treatment Facilities through the implementation of energy efficiency measures, deployment of renewable energy and co-generation systems.

2.3 Assist in the stabilization of commercial and residential sewer rates.

2.4 Realize environmental benefits including air quality and water quality.

2.5 Reduce the reliance on energy resources from outside Rhode Island.

Section 3.0 LEGAL AUTHORITY.

These Energy Efficiency Wastewater Treatment Facility Program rules and regulations are adopted in accordance with RIGL Chapter 42-35 (Administrative Procedures Act) and with RIGL §§ 42-140-3 and 42-140-9 (Rhode Island Energy Resources Act).

Section 4.0 DEFINITIONS.

For the purposes of these rules and regulations the following terms shall be defined as follows:

4.1 “Agency” means the Rhode Island Clean Water Finance Agency.

4.2 “ARRA” means the American Recovery and Reinvestment Act of 2009.

4.3 “Co-generation” means the simultaneous production by equipment of power, typically electricity and useful heat.

4.4 “DEM” means the Rhode Island Department of Environmental Management.

4.5 “Department” means the Rhode Island Department of Administration.

4.6 “DOE” means the U.S. Department of Energy.

4.7 “EDC” means the Rhode Island Economic Development Corporation.

4.8 “Energy Efficiency Measure” means an improvement to a Wastewater Treatment Facility, including equipment and physical operating control systems that produce reductions in energy costs that are greater over the life of the improvement than the net cost to the Wastewater Treatment Facility of the improvement over the life of the improvement. Energy Efficiency Measures may include cost effective co-generation and Renewable Energy Resource.

4.9 “Energy Efficiency Technical Assessment” means an evaluation of energy/cost savings opportunities at the WWTF.

4.10 “Energy Efficiency Up-Grade” means an improvement to a Wastewater Treatment Facility, including equipment, facilities, and physical operating control systems, that improve the energy efficiency of the Wastewater Treatment Facility above what the energy efficiency of the Wastewater Treatment Facility would be without the

improvement. Energy Efficiency Up-Grades may include cost effective co-generation and Renewable Energy Resources.

4.11 "EPA" means the US Environmental Protection Agency.

4.12 "Local Governmental Unit" means any town, city, district, commission, agency, authority, board or other political subdivision or instrumentality of the state or of any political subdivision thereof responsible for the ownership or operation of a water pollution abatement project including the Narragansett Bay Commission.

4.13 "NPDES" means National Pollutant Discharge Elimination System.

4.14 "Office" means the Rhode Island Office of Energy Resources.

4.15 "Program" means the "Energy Efficiency Wastewater Treatment Facility Program" established by these rules and regulations.

4.16 "Project" means one or more "Energy Efficiency Measure" or "Energy Efficiency Up-Grade" and the directly associated engineering and design costs of the measure.

4.17 "Renewable Energy Resource" means a renewable energy resource recognized in RIGL Chapter 39-26 or as formally recognized by the EPA or DOE.

4.18 "Wastewater" means human waste from any receptacles intended to receive or retain bodily waste products, and any organic or non-biological wastes from residences, businesses, institutions and industries or any combination of the above, as well as any water used as a means of conveyance of such wastes, which is intended to enter a Wastewater Treatment Facility for collection, conveyance, treatment and discharge in accordance with a National Pollutant Discharge Elimination System permit.

4.19 "Wastewater Treatment Facility" or "WWTF" means a group or assemblage of processes, devices and structures for the conveyance, treatment or removal of objectionable constituents of Wastewater. A WWTF shall include, but not be limited to, all physically connected wastewater collection system piping, pumping, storage, physical, chemical and/or biological treatment, filtering and disinfection systems. For the purposes of these Rules and Regulations, a Wastewater Treatment Facility shall not be considered to be: (1) an Onsite Wastewater Treatment System, which does not discharge into surface waters but discharge into subsurface waters; or, (2) any privately owned plumbing; or (3) any privately owned low-pressure grinder pumps.

Section 5.0 COMPREHENSIVE ASSESSMENT.

5.1 The Office shall, in cooperation with the DEM, provide for a comprehensive assessment of potential Energy Efficiency Measures in WWTFs of Local Governmental Units by March 31, 2012.

5.2 The Office, in cooperation with the DEM, shall biennially update the comprehensive assessment of potential Energy Efficiency Measures in WWTFs of local governmental units, with the first update to be completed by March 31, 2014, and thereafter shall be completed in even years by March 31 through December 31, 2022. The update shall include an assessment of progress made since the prior assessment in achieving energy efficiency improvements in WWTFs and shall provide calculations of energy savings and energy cost savings since the effective date of this Program.

Section 6.0 FUNDING SUPPORT.

6.1 The Office shall coordinate and maintain, in cooperation with the DEM, the EDC, and the Agency, an assessment of funding support for Projects from the following sources, including but not limited to such funds as may be available (1) to the Office (including ARRA-DOE funds), (2) through the RIGL Chapter 23-82 (“Regional Greenhouse Gas Initiative”), (3) RIGL §§ 39-2-1.2 and 39-1-27.7 (“demand side management “ and “least cost procurement”), and (3) RIGL Chapter 39-26 (Renewable Energy Standard), and such support as may be available through RIGL Chapter 46-12.2 (“State Revolving Fund”), and such other sources of funds and/or support as may be available from the Federal government, State government, and other entities and resources to accomplish the purposes of this of program.

6.2 The Office shall make available three million one hundred thousand dollars (\$3,100,000) from DOE ARRA-State Energy Program funds to support Energy Efficiency Technical Assessments and Projects in WWTFs of Local Governmental Units, which amount may be increased or decreased by the Office within the limits of available funds to achieve the purposes of the Program.

Section 7.0 EMERGENCY ENERGY EFFICIENCY UP-GRADES.

In the event that a state of emergency has been declared pursuant to RIGL § 30-15-9, and if there has been known damage to WWTFs, within one year thereafter, the Office shall request the DEM to assess the potential for making Energy Efficiency Measures and Up-Grades as part of restoring damaged WWTFs to full, on-going operation, in accordance with applicable permits issued by the DEM.

Section 8.0 IMPLEMENTATION: APPLICATIONS and AWARDS.

8.1 Local Government Units shall be eligible applicants for funds for Projects and for Energy Efficiency Technical Assessments.

8.2 Project applications shall include:

- (a) A description of the proposed Project, including the cost of the project, the energy efficiency cost savings to be realized by the project, and the estimated annual kilowatt hour savings that would result from the project.

- (b) A statement of need for the Project, including any documentation necessary to support that the Project is part of restoring a damaged WWTF resulting from a declared state of emergency.
- (c) A list of all major equipment to be purchased as a part of the Project.
- (d) A detailed project budget including but not limited to equipment purchases, installation costs, and directly associated engineering and design costs for the Project.
- (e) A time line for completion of the project. For projects receiving ARRA funds shall include documentation and/or assurances that the Project shall be completed by March 31, 2012.
- (f) Assurances that the Project complies with all applicable Federal and state permit conditions for the operation of the WWTF.
- (g) Assurances that the Project will comply with all applicable ARRA terms and conditions.
- (h) Such other information, documentation, and assurances as the Office may require.

8.3 Energy Efficiency Technical Assessment applications shall include:

- (a) A description the scope of energy efficiency technical assistance services to be provided.
- (b) The number of WWTFs of local government units that will be served.
- (c) The source of matching funds.
- (d) A detailed project budget.
- (e) A time line for completion of assessments receiving ARRA funds shall include documentation and/or assurances that the assessments shall be completed by March 31, 2012.

In considering applications for Energy Efficiency Technical Assessment, the Office shall take into account the experience of the Local Governmental Unit in managing assistance to WWTFs on a multi-Local Government Unit or statewide basis.

8.4 The Office shall establish, subject to the availability funds, one or more application periods annually, which periods shall be of not less than twenty-one days each. The notice of the application shall state level funding, priorities for funding and associated evaluation criteria, and any limitation on the maximum amount of any award, which shall not in any case be greater than one million dollars (\$1,000,000), and restrictions or limitations on the uses of funds, including those necessary to comply with the requirements of the funding source.

8.5 The Office shall solicit applications from Local Government Units through the Department of Administration, Division of Purchases. Review of applications shall be conducted in a manner consistent with applicable requirements for such reviews under State law and regulation, including the regulations of the Division of Purchases. The technical review committee for such reviews shall be convened by the Office and comprised of at least three members including as a minimum representatives of the Office and the DEM. The review criteria to be used in evaluating applications shall be set forth in the solicitation, and for Projects shall include the need for the Project, the energy

savings of the Project, and for ARRA supported projects, the timeliness of the completion of the project, and such factors as the Office may determine as appropriate.

8.6 Awards in any application period shall be limited to the level of available funds and shall be contingent upon compliance of all applicable terms and conditions.

Section 9.0 Severability

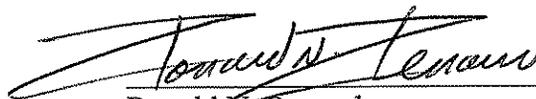
If any provision of these Rules and Regulations, or the application thereof to any person or circumstance, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

Section 10.0 Application

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

Section 11.0 Effective Date

The foregoing regulations are hereby adopted and filed with the Secretary of State to become effective immediately, in accordance with the provisions of the RIGL Chapter 42-35, specifically §§ 42-35-3(b).



Ronald N. Renaud
Interim Commissioner
Office of Energy Resources
Department of Administration