

RHODE ISLAND
SOLID WASTE MANAGEMENT CORPORATION
FLOW CONTROL REGULATIONS

1. Purpose.

(a) The purpose of these regulations is to provide for the uniform supervision of collecting, hauling, transferring, and disposing of solid waste that is collected and generated within the State of Rhode Island and for the designation of disposal systems and facilities for such solid wastes so as to (1) maximize resource recovery from solid waste such as the recovery of energy through combustion and maximize source reduction, source separation, recycling and reuse of such resources, (2) protect and conserve public resources and the public health, (3) ensure that illegal disposal of solid waste, whether in Rhode Island or elsewhere, does not occur, (4) reduce or eliminate liability of the agencies and municipalities of the State for the illegal disposal of solid and hazardous waste that may be commingled with solid waste, (5) plan for and regulate the amount and character of vehicle traffic which transports solid waste, and (6) to plan for the establishment of systems and facilities to accomodate solid waste disposal and processing needs on a long term basis. Collecting, hauling, transferring, and disposing of solid waste are activities that are affected with a public interest and uniform supervision of such activities along with designation of disposal systems and facilities is necessary to protect and preserve the environment and public resources and to promote the convenience, health, comfort, safety and welfare of the people of the state and is a proper exercise of the police power of the state and the statutory powers of the Solid Waste Management Corporation.

(b) These regulations are promulgated to support a long range integrated solid waste management system which is based on the following priorities to the extent economically feasible:

- (1) Maximizing source reduction;
- (2) Maximizing source separation, recycling and reuse of resources;
- (3) Maximizing resource recovery from solid waste such as the recovery of energy through combustion; and
- (4) Minimizing landfilling.



2. Authority.

The Solid Waste Management Corporation promulgates these regulations and Enforcement Plan (attached as Appendix A) pursuant to the authority of the Solid Waste Management Corporation Act, Rhode Island General Law §23-19-1 et seq., including §23-19-10, §23-19-13, and §23-19-28.1 and the Administrative Procedures Act, Rhode Island General Law §42-35-1 et seq.

3. Definitions.

"Act" means the Solid Waste Management Corporation Act.

"Corporation" means the Solid Waste Management Corporation.

"Executive Director" means the executive director of the Corporation or his designee.

"Disposal" means depositing, casting, throwing, leaving or abandoning of a quantity greater than three (3) cubic yards of solid waste.

"Hauler" means any person, municipality, corporation or business of any type engaged in the business of transporting or disposing solid waste originating or collected within the State of Rhode Island.

"Load of solid waste" means any containerized solid waste which is transported within the State of Rhode Island by an individual vehicle or trailer.

"Solid waste" means garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded materials, including solid, liquid, semisolid, or contained gaseous material generated by residential, institutional, commercial, industrial, and agricultural sources but does not include solids or dissolved materials in domestic sewage.

4. Designation of Disposal Systems and Facilities.

Solid waste management and disposal facilities licensed by the Rhode Island Department of Environmental Management shall be used exclusively by all waste generators, haulers, and transporters for final disposal of all solid waste originating or collected within the State of Rhode Island.

5. Disposal.

(a) Every hauler of solid waste originating or collected within the State of Rhode Island shall deliver every load of such solid waste to and dispose of such solid waste at



a disposal facility or system designated by the Corporation for such disposal. Disposal of solid waste originating or collected within the State of Rhode Island at facilities or systems other than those designated by the Corporation or the delivery of such solid waste for disposal at such facilities is prohibited.

(b) These Regulations do not apply to those recyclable materials which have been designated as recyclables by the Department of Environmental Management and which have already been separated from the solid waste stream for the purpose of reuse or recycling.

6. Orders.

The Corporation may issue orders requiring that any hauler cease and desist delivering for disposal or cease and desist disposing solid waste originating or collected within the State of Rhode Island at other than facilities or systems designated by the Corporation. The Corporation may impose administrative penalties for delivery or disposal of solid waste in violation of these regulations.

7. Penalties.

Every hauler delivering solid waste originating or collected within the State of Rhode Island for disposal at or disposing such solid waste at facilities or systems that have not been designated by the Corporation, shall be assessed an administrative penalty of up to \$1,000 for each load of solid waste that has been so delivered or disposed.

8. Notice of Violation.

(a) Whenever the Executive Director has reasonable grounds to believe that a hauler has delivered solid waste for disposal or disposed solid waste at a facility or system not designated by the Corporation or otherwise has violated the provisions of the Act and the Corporation's enforcement plan, the Executive Director may issue a notice of violation requiring the hauler to show cause why he should not be ordered to cease and desist such activity and/or be assessed an administrative penalty in accordance with the provisions of these regulations. The notice of violation shall specify the alleged activity that violates these regulations, the regulations and/or statutes violated, the amount of the fine, if any, proposed and that the hauler may within ten (10) days of receipt of the order request in writing a hearing. The notice of violation shall be served in the manner in which summonses authorized by the Superior Court Rules of Civil Procedure are served or by certified mail return receipt requested.



(b) If a hauler, who receives a notice of violation, does not make written request for a hearing within ten (10) days of receipt of the notice of violation, the provisions of the notice of violation shall become final, effective and ordered in accord with the terms of the notice of violation and any proposed administrative penalty shall become final, assessed and due the Corporation.

9. Hearing.

(a) Hearings shall follow the procedures and requirements of the Administrative Procedures Act. The Executive Director shall designate a Hearing Officer to preside at the hearing and to render a decision. If a Hearing Officer designated is a member of the Corporation's staff, he shall not have had any prior involvement in the issuance of the notice of violation or subject matter of the hearing.

(b) The Corporation shall have the burden of proving by a preponderance of the evidence that the hauler has delivered solid waste for disposal or disposed solid waste at a facility or system that has not been designated by the Corporation.

(c) Subject to the control and rulings of the Hearing Officer, a hauler, who has requested a hearing, shall have a reasonable opportunity to cross-examine witnesses presented by the Corporation, examine and object to the introduction of evidence and present witnesses and evidence in his own behalf.

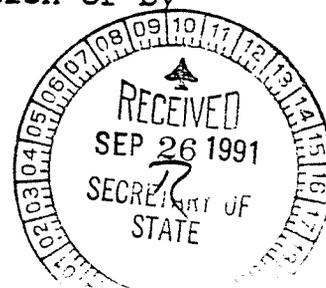
(d) (i) Upon finding that the Corporation has proven by preponderance of the evidence that the hauler has delivered solid waste for disposal or has disposed of solid waste at facilities or systems not designated by the Corporation, the Hearing Officer shall impose a fine of up to \$1,000 for each load or partial load of solid waste so delivered or disposed and shall order the hauler to cease and desist such activities.

(ii) Upon a finding that the Corporation has not proven its case by a preponderance of the evidence the notice of violation shall be revoked.

10. Determination of Administrative Penalty.

When imposing an administrative penalty the Hearing Officer shall consider to the extent practicable:

- (a) The extent of noncompliance with the Corporation's enforcement plan;
- (b) The action and potential impact on public health, safety and welfare and the environment of the failure to comply;
- (c) The actual and potential damages suffered, and actual or potential costs incurred, by the Corporation or by any other person;



(d) Whether the person being assessed the administrative penalty took steps to prevent noncompliance, to promptly come into compliance and to remedy and mitigate whatever harm might have been done as a result of such noncompliance;

(e) Whether the person being assessed the administrative penalty has previously failed to comply with any rule, regulation, order, or approval issued or adopted by the Executive Director or any law which the Executive Director has the authority or responsibility to enforce;

(f) Making compliance less costly than noncompliance;

(g) Deterring future noncompliance;

(h) The financial condition of the person being assessed the administrative penalty;

(i) The amount necessary to eliminate the economic advantage of noncompliance including but not limited to the financial advantage acquired over competitors from the noncompliance;

(j) Whether the failure to comply was intentional, willfull or knowing and not the result of error;

(k) Any amount specified by state and/or federal statute for a similar violation or failure to comply;

(l) Any other factor(s) that may be relevant in determining the amount of a penalty, provided that the other factors shall be set forth in the written notice of assessment of the penalty; and

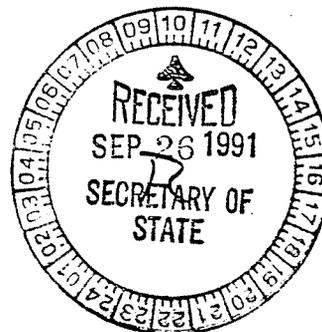
(m) The public interest.

11. Civil and Criminal Proceedings.

Nothing in these regulations shall preclude the Corporation from instituting pursuant to authority of the Act civil and/or criminal proceedings to enforce the provisions of these regulations and the Act.

12. Appeal.

Appeals of decisions of the Corporation shall be to the Superior Court and shall follow the procedures established in the Rhode Island Administrative Procedures Act.



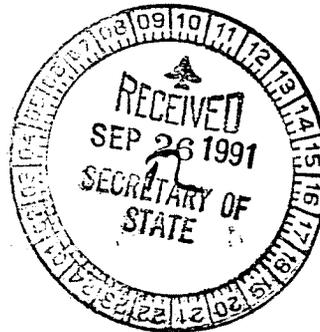
APPENDIX A

Solid waste management and disposal facilities licensed by the Rhode Island Department of Environmental Management:

Charlestown Landfill, Charlestown, RI
Central landfill, Shun Pike, Johnston, RI
*Hometown Properties, Inc. and Homevest, Inc.
Landfill, Dry Bridge Road, North Kingstown, RI
Tiverton Landfill, Main Road, Tiverton, RI
Westerly Landfill, Route 91, Westerly, RI

*operating pursuant to
Court order.

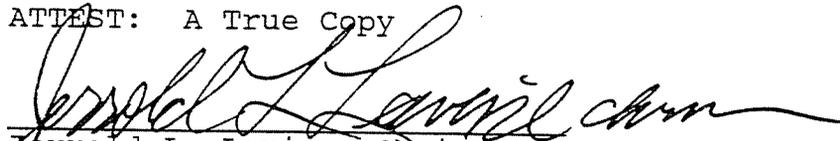
0461D/lg



RHODE ISLAND SOLID WASTE MANAGEMENT CORPORATION

FLOW CONTROL REGULATIONS

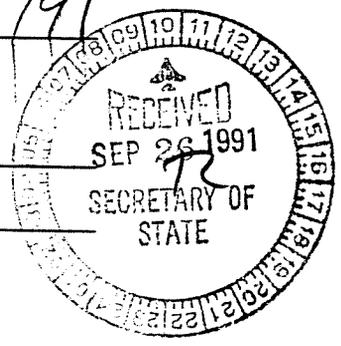
ATTEST: A True Copy


Terrold L. Lavine, Chairman

Date Approved: 9/25/91

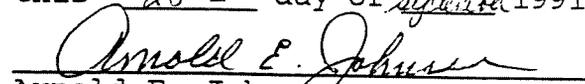
Date Filed with the
Secretary of State: _____

Date Effective: _____



State of Rhode Island
Providence SC

Signed and sworn to before me;
this 25th day of September 1991


Arnold E. Johnson
Notary Public

My Commission expires
June 16, 1993

RESOLUTION OF BOARD OF COMMISSIONERS
OF THE RHODE ISLAND SOLID WASTE MANAGEMENT CORPORATION

WHEREAS, on June 3, 1991 the Board of Commissioners of the Solid Waste Management Corporation adopted the Rhode Island Solid Waste Management Corporation Flow Control Regulations as emergency regulations.

WHEREAS, the regulations were filed with the Secretary of State and became effective on June 3, 1991.

WHEREAS, pursuant to General Law 42-35-3(b) these regulations are effective as emergency regulations for 120 days or until October 1, 1991.

WHEREAS, a public hearing regarding the regulations was held on June 28, 1991; comments from the public were received and staff has made minor revisions to the regulations based on the public comments.

WHEREAS, the Board of Commissioners is mindful of the Federal District Court order preliminarily enjoining the implementation of flow control regulations.

WHEREAS, that order is now being appealed to the United States Court of Appeals for the First Circuit and hearing on the appeal is scheduled for October 1991.

WHEREAS, the Board of Commissioners desires to promulgate these regulations as final regulations so that the regulations can become effective, if and when the United States Court of Appeals vacates the Federal District Court order.

NOW THEREFORE, be it resolved that the Solid Waste Management Corporation promulgates the attached revised Flow Control Regulations as final regulations of the Rhode Island Solid Waste Management Corporation, provided however, that these regulations shall not be enforced pending the result of the appeal of the Rhode Island Federal District Court's order enjoining enforcement of such regulations.

