

Regulatory Flexibility Analysis
For Small Businesses and Local Governments

Amendment of 6 NYCRR Part 370 Series

Hazardous Waste Management

1. Effect of rule:

The proposed rulemaking does not place any additional burdens on small businesses or local governments, create new regulatory programs, expand existing regulatory programs or increase the universe of regulatory requirements applicable to the regulated community beyond that which is already required by the federal regulations.

Accordingly, the number of small businesses and local governments affected by the rulemaking will not be more than those already affected by the existing regulations. Small businesses which are affected by the hazardous waste regulations range from dentists to auto maintenance facilities to manufacturers.

Small businesses and local governments who are impacted by the hazardous waste management regulations are typically either conditionally exempt small quantity generators (CESQGs) or small quantity generators (SQGs). CESQGs are those that generate no more than 100 kilograms of hazardous waste in a month. SQGs are those that generate between 100 and 1,000 kilograms of hazardous waste in a month, no more than 1 kilogram of acute hazardous waste, and store less than 6,000 kilograms on-site.

SQGs and CESQGs have certain management and disposal requirements that must be met for the hazardous waste they generate. Large quantity generators (LQGs) generate the vast

majority of the waste in the state and are subject to greater regulation. If an education entity chooses to use the new regulatory option for management of laboratory waste, they may change from LQG status to SQG status and thus decrease their regulatory burden.

SQGs must manifest their hazardous waste when it is shipped off site. Based on hazardous waste manifest records, approximately 5,500 SQGs each year ship hazardous waste for management. Over a 5 year period (2008 to 2012) 10,000 New York SQGs shipped hazardous waste for management. There are far more CESQGs in the State than SQGs. These generators are not required to manifest their waste.

2. Compliance Requirements

There are no new reporting, recordkeeping, or other compliance requirements for small quantity generators as a result of the proposed rulemaking. The proposed rulemaking principally adopts the existing United States Environmental Protection Agency (EPA) regulations or adopts new EPA regulations which are less stringent than present state regulations with which the regulated community already has to comply. Adoption of the proposed rulemaking will reduce duplication of effort in complying with both federal and state regulations.

3. Professional Services

The quantity and types of service needed will remain close to the present level. The proposed rulemaking does not involve any major program changes, with regard to the scope of the program, which are not already mandated by federal regulation. New York State Department of Environmental Conservation (DEC) continues to operate an outreach program for small quantity generators including phone and e-mail access to DEC staff for assistance.

4. Compliance Costs

Small businesses and local governments should not incur any additional costs, either initial capital costs or annual compliance costs, to comply with the proposed rulemaking. New federal rule changes that impose additional requirements would be enforced by the EPA even if New York State chose not to adopt them. Other changes will make existing rules more consistent with federal rules and generally less stringent than existing state regulations.

5. Economic and Technological Feasibility

As these rule changes either implement federal regulations already in effect or decrease the regulatory burden on small businesses and local governments, implementation of these rule changes will be economically and technologically feasible for small businesses and local governments.

6. Minimizing Adverse Impact

It is DEC's belief that the proposed amendments will not cause a significant economic burden to the small business community or local governments. In general, most small businesses that generate hazardous wastes are already required to comply with the federal small quantity generator requirements. These requirements are intended to be less complex and less costly than the hazardous waste management regulations that large businesses must satisfy.

7. Small Business and Local Government Participation

NYDEC has an ongoing education programs for small businesses that include small quantity generators of hazardous waste. As part of this program, workshops are conducted with trade associations throughout the state on a periodic basis. In addition, DEC has a handbook available that explains the small quantity generator regulations. In July 2009, information on

this rulemaking and request for comments was mailed to all New York hazardous waste large quantity generators, small quantity generators, and management facilities which had manifested or received hazardous waste in the previous year. In addition, information and request for comments was published in DEC's Environmental Notice Bulletin and on DEC's public web site. The public comment period extended from July 24, 2009 to November 1, 2009. Small businesses and local governments were included in this Statewide Outreach effort, and no significant comments were received from these stakeholders. From February through April 2015, a second public comment period was held, including notice in DEC's ENB, and on DEC's public website. A webinar and a public meeting were also held during this time period. DEC also utilizes a listserv to reach interested parties. During the 2015 public comment period, few comments were received; commenters found a draft change to the definition of Small Quantity Generator to be confusing. Revisions have been made to make the definition more clear.