

REGULATORY FLEXIBILITY & SMALL BUSINESS IMPACT STATEMENT

Prepared by the RI Department of Environmental Management for Proposed Amendments to the 'Rules and Regulations for Hazardous Waste Management' (Effective July 1984 & Last Amended in 2010)

Agency submitting regulation:

RI Department of Environmental Management

Subject matter of regulation:

Hazardous Waste Generation, Transportation, Treatment and Disposal

ERLID No: 7597 (Supersedes ERLID# 5953)

Statutory authority:

RIGL Chapters 23-19.1, 23-19.4 (2001 Reenactment), and 23-24.12

Other agencies affected:

None

Other regulations that may duplicate or conflict with the regulation:

Federal Regulations 40 CFR Parts 260-299 contain the federal equivalent of these regulations, delegated to the state by US Environmental Protection Agency (US EPA).

Describe the scope and objectives of the regulation:

The regulations govern hazardous waste generated by businesses (private households are exempt) from cradle to grave. The goal is to track and properly manage hazardous waste to minimize release to the environment or the endangerment of workers.

In 2012, the RI General Assembly enacted a Post Consumer Paint Product Stewardship Program and specifically directed the RI Department of Environmental Management (Department) to amend its Hazardous Waste Regulations to recognize conditionally exempt small quantity generators of hazardous waste pursuant to US EPA standards. The amended regulations comply with the 2012 legislative statute on paint waste as found in 23-24.12.

It creates a framework to allow new categories of facilities (paint collection centers and community collection centers) to collect hazardous waste from conditionally exempt small quantity generators. It also provides regulatory relief to small businesses by allowing them more flexibility in managing their waste by recognizing small quantity and conditionally exempt small quantity generator status. Oil based paint is considered a hazardous waste.

What was the rationale for establishing this regulation?

In the 1970's, there was widespread mismanagement and uncontrolled dumping of hazardous waste that was rapidly contaminating the state's aquifers and creating hazards to first responders like fire departments.

Does the rationale still exist?

This would still be a danger if there were no regulation. The federal government does not have the resources or the regulatory framework to provide adequate oversight. RIDEM's Hazardous Waste Program is a federally delegated program.

Is the rationale still relevant?

Yes

Business industry (s) affected by the regulation:

Anyone who generates hazardous waste, including manufacturing, health care and parts cleaning is governed by these regulations, however, the amendments mostly affect those who generate paint waste. These include real estate managers, general contractors and builders. The NAICS codes of those primarily affected as listed below:

531311, 531312, 23611, 236210, 236220

Types of businesses included in the industry (s):

As the regulatory amendments primarily affect those who generate paints, it affects those who manage, build or contact to paint, residential and non-residential properties. It will have the affect of creating a no cost option for small businesses to dispose of there unused paint without having to hire a hazardous waste contractor by using Paint Collection Centers.

Total number of small businesses included in the regulated industry (s) (Please sees the attached guidance documents for assistance determining the total number of small businesses)

Estimated - 3,000.

Number of small businesses potentially subject to the proposed regulation:

Estimated - 2,300.

How often do small businesses contact your agency for assistance with clarification of the regulation and/or receive assistance with compliance issues?

The Department receives about 15-20 calls a day from various businesses looking for id numbers, clarification of regulations, or needing some other type of regulatory assistance.

What is the cost to your agency of establishing and enforcing this regulation?

Approximately \$850,000. This estimate is for the existing regulations. New regulations are not expected to take up more resources.

What would the consequences be if the regulation did not exist?

The Department would have no authority to prevent businesses from dumping hazardous waste in a way that polluted drinking water aquifers or endangered the public. The environmental, social, and public health consequences would be significant.

Effective date used in cost estimate:

9/11/2013

For each question below, please answer “yes” or “no” and offer a brief explanation.

Please describe any facts, data, views, arguments, or other input from small businesses, organizations or any other sources that were used to quantify the impacts outlined below.

1.	Yes	No X	<p>Do small businesses have to create, file, or issue additional reports?</p> <p>No. These Regulations, as proposed, would lower the regulatory burden on those companies that generate small amounts of hazardous waste by reducing the overall paperwork/reporting burden (such as Contingency Planning) and also providing more flexibility for how the small quantity generators manage their waste (i.e. they can self transport small quantities of hazardous waste to a community collection center).</p> <p>No. This will most benefit small paint contractors by creating a framework whereby Paint Collection Centers will accept their oil based paint at no cost. It will also allow collection centers like the Eco Depot (run by the Rhode Island Resource Recovery Corporation) to allow some small businesses that meet the definition of Conditionally Exempt Small Quantity Generators to dispose of their waste at a much lower cost by establishing an economy of scale for hazardous waste disposal.</p> <p>Reporting requirements were changed for Small Quantity and Conditionally Exempt Small Quantity Generators to replace biennial hazardous waste reporting with Compliance Certification Checklists. This was done because compliance certification checklists are designed to be more user friendly by putting regulatory requirements in plain English geared towards a particular sector. For instance, autobody shops have a checklists that point out common problems managing certain types of wastes and suggests best management practices reflective of that industry. These are also required to be done every 3 years instead of every 2 years for the biennial report.</p>
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2.	Yes	No X	<p>Do small businesses have to implement additional recordkeeping procedures?</p> <p>No. These Regulations, as proposed, would lower the regulatory burden on those companies that generate small amounts of hazardous waste by reducing the overall paperwork/recordkeeping burden (such as Contingency Planning) and also providing more flexibility for how the small quantity generators manage their waste (i.e. they can self transport small quantities of hazardous waste to a community collection center).</p> <p>As explained above, the checklists requirements for Small Quantity Generators is new but not significantly more burdensome.</p>
3.	Yes	No X	<p>Do small businesses have to provide additional administrative oversight?</p> <p>No. These Regulations, as proposed, would lower the regulatory burden on those companies that generate small amounts of hazardous waste by reducing the overall paperwork burden (including administrative tasks) and also providing more flexibility for how the small quantity generators manage their waste (i.e. they can self transport small quantities of hazardous waste to a community collection center).</p>
4.	Yes	No X	<p>Do small businesses have to hire additional employees in order to comply with the proposed regulation?</p> <p>No. It is not anticipated small businesses will have to hire additional employees.</p>
5.	Yes	No X	<p>Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)?</p> <p>No. It is not anticipated small businesses will have to hire other outside professionals.</p>
6.	Yes	No X	<p>Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation?</p> <p>No. It is not anticipated small businesses will have to make capital investments in order to comply with the regulations (last amended in 2010).</p>
7.	Yes	No X	<p>Are performance standards more appropriate than design standards?</p> <p>The Department believes this is the simplest way to institute the regulations. Were the framework of regulatory compliance to change to operational standards, the generators would still have to meet design or operational standards set forth in federal regulations and would find compliance more difficult and expensive.</p>

8.	Yes	No X	<p>Does the regulation require small businesses to cooperate with audits, inspections, or other regulatory enforcement activities?</p> <p>No. It is not anticipated small businesses will have to cooperate with audits or inspections beyond what is already required in the regulations (last amended in 2010).</p>
9.	Yes	No X	<p>Does the regulation have the effect of creating additional taxes and/or fees for small businesses?</p> <p>The only new fees are for operations that were not allowed before (community collection centers, circuit board shredding operations)</p>
10.	Yes	No X	<p>Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements?</p> <p>No, these regulations should be significantly easier to follow than previous rules with the elimination of potentially contradictory references to federal rules.</p>
11.	Yes	No X	<p>Is the regulation likely to <i>deter</i> the formation of small businesses in RI?</p> <p>No. In fact, it may encourage the expansion or formation of small businesses.</p>
12.	Yes X	No	<p>Is the regulation likely to <i>encourage</i> the formation of small businesses in RI?</p> <p>There are significant costs savings to small businesses that fall into the new, proposed categories of Small Quantity and Conditionally Exempt Small Quantity Generators. It may actually encourage the expansion or formation of small businesses.</p>
13.	Yes X	No	<p>Can the regulation provide for less stringent compliance or reporting requirements for small businesses?</p> <p>It can and does do this. See answer provided in #1, #2, and #3 above.</p> <p>The recognition of Small Quantity Generators and Conditionally Exempt Small Quantity Generators is meant to do exactly that, while maximizing the Department's resources to focus on larger waste generating operations.</p>
14.	Yes X	No	<p>Can the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses?</p>

			It can and does do this.
15.	Yes X	No	<p>Can the compliance or reporting requirements be consolidated or simplified for small businesses?</p> <p>It can and does do this.</p>
16.	Yes	No X	<p>Can performance standards for small businesses replace design or operational standards?</p> <p>Please see answer to #7 above.</p>
17.	Yes	No X	<p>Are there alternative regulatory methods that would minimize the adverse impact on small businesses?</p> <p>The proposed amendments are already specifically designed to minimize impacts on businesses in RI.</p>
18.	Yes X	No	<p>Have any small businesses or small business organizations been contacted during the preparation of this document? If so, please describe.</p> <p>We have had extensive discussion with an organization called Paint Care about small businesses they serve in other states. Their goal is to make paint collections run as smoothly as possible in other states (e.g. Connecticut). Paint Care's input has significantly improved/changed these regulations.</p>