

Report From Agency

REPORT TO LEGISLATURE

Chapter NR 660, Wis. Adm. Code
Hazardous waste management: general

Board Order No. WA-30-09
Clearinghouse Rule No. 10-036

Basis and Purpose of the Proposed Rule

Section 289.67 (2) (de), Stats., as created by 2009 Wisconsin Act 28 (the 2009-2011 biennial budget bill), requires the department to promulgate by rule definitions of “large quantity generator” and “small quantity generator” for purposes of the hazardous waste generator fees established by s. 289.67 (2) (b) 1., Stats., as amended by 2009 Wisconsin Act 28. The proposed rule creates a definition of “large quantity generator” and revises the existing definition of “small quantity generator” in ch. NR 660.

Rule Summary

Under current federal hazardous waste regulations and state hazardous waste rules, standards are set for large quantity and small quantity hazardous waste generators, so their status is functionally described, but there are no specific, comprehensive definitions of these terms.

The proposed rule establishes explicit, complete definitions of “large quantity generator” and “small quantity generator” in s. NR 660.10. The definitions are based on – and consistent with – the state and federal functional descriptions.

Summary of Public Comments

On April 26, 2010, the Department held a public hearing on the emergency rule and proposed permanent rule at the DNR central office in Madison, and at the same time, by “live meeting” held concurrent public hearings at the DNR regional headquarters in Milwaukee, Green Bay and Eau Claire. No members of the public attended the hearings, and the Department did not receive any written comments on the proposed rule during the public comment period.

Modifications Made

The only modification made was a punctuation correction made in the proposed rule in response to a comment by the Legislative Council Rules Clearinghouse.

Appearances at the Public Hearing

None.

Changes to Rule Analysis and Fiscal Estimate

None.

Response to Legislative Council Rules Clearinghouse Report

The Department received one comment (on punctuation) from the Legislative Council Rules Clearinghouse. The Department accepted the comment and has revised the rule accordingly.

Final Regulatory Flexibility Analysis

1. Describe the type of small business that will be affected by the rule.

The proposed rules affect small businesses that are large quantity or small quantity generators of hazardous waste. There is no direct correlation between the definitions of “small business” and “large quantity generator” or “small quantity generator,” so a precise assessment of the definitions’ effect on small business is not possible. Small businesses may be either large quantity or small quantity generators of hazardous waste, or neither. In any case, under the revised hazardous waste generator base fee statute, the maximum additional amount that a large quantity generator would have to pay is \$470. A small quantity generator would pay a maximum of \$350 more than in past years.

Under the statutory language in effect before the 2009-2011 biennial budget (2009 Wisconsin Act 28), all large quantity generators and small quantity generators who were required to submit a hazardous waste annual report were required to pay a base fee of \$210 and \$20 per ton for hazardous waste generated during the reporting year. The tonnage fee did not apply to any wastes that were recycled or reused, and if a generator recycled or reused all of its hazardous waste, it was not required to pay the base fee either.

2009 Wisconsin Act 28 amended the statutes to increase the base fee from \$210 to \$350 for small quantity generators, and to \$470 for large quantity generators. It also increased the maximum fee any generator would have to pay from \$17,000 to \$17,500 per year. In addition, the base fee was applied to all generators who are required to report, regardless of whether they recycled or reused any or all of their wastes. The per ton fee remains at \$20 per ton.

2. Briefly explain the reporting, bookkeeping and other procedures required for compliance with the rule. No new recordkeeping or reporting requirements are created and no new skills are required to comply with the proposed rules.

3. Describe the type of professional skills necessary for compliance with the rule. No new professional skills are needed to comply with the proposed rule.

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