§ 1285-g. Industrial materials recycling program. 1. Applicability. It is the purpose of this section to establish a program within the corporation to encourage the reduction, recovery and recycling of industrial materials otherwise requiring disposal.

2. Definitions. When used in this section, unless another meaning clearly appears from its context:

a. "Hazardous waste" means a waste which appears on the list or satisfied the criteria promulgated by the commissioner of environmental conservation pursuant to section 27-0903 of the environmental conservation law and until, but not after, the promulgation of such list and criteria means a waste or combination of wastes, which because of its quality, concentration, or physical, chemical or infectious characteristics may:

(i) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or

(ii) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed.

b. "Industrial solid waste" means any garbage, refuse, sludge from a waste treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, mining and agricultural operations as a result of a commercial or industrial process but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under article seventeen of the environmental conservation law, or source, special nuclear or by-product material as defined in the Atomic Energy Act of 1954, as amended except as may be provided by existing agreements between the state of New York and the government of the United States.

c. "Industrial material" means hazardous waste and industrial solid waste.

d. "Recovery and recycling" means any method or technique utilized to separate, process, modify, convert, treat, or otherwise prepare industrial materials so that component materials or substances may be used as raw materials or energy sources.

e. "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body.

f. "Generator" means a person whose industrial activities produce industrial material.

3. Industrial materials recycling program. a. The corporation shall undertake and be responsible for a program to encourage industrial materials reduction, recovery and recycling as hereinafter provided. The corporation shall give first priority in such program to hazardous wastes in order to reduce risks to public health and the environment.

b. Such program shall include but not be limited to the following activities:

i. Planning including compilation of, research and development information on industrial methods, technologies and practices that will result in the reduction, recovery or recycling of industrial materials.

ii. Investigation and research into market potential and feasibility for increased utilization of recovered or recycled industrial materials.

iii. Collection, development and maintenance of data on existing and projected production of industrial materials.

iv. Review and analysis of existing industrial methods, technologies and practices relating to the generation, use and disposal of industrial materials.

v. Development and maintenance of a technical reference capability on

industrial materials reduction, recovery and recycling methods, technologies and practices including appropriate information available for public and private use.

vi. Encouragement and assistance, within the resources available, to generators and users of industrial materials and to municipalities to reduce, recover or recycle industrial materials, as is feasible and appropriate.

vii. Establishment and maintenance of an information clearing house which shall consist of an ongoing record of industrial materials which may be recycled or recovered. Such record shall include, but is not limited to, the information that is provided in manifest reports required pursuant to section 27-0905 of the environmental conservation law, except that no information including the identities or other identifying information of the individual generators shall be disclosed without the express written consent of the applicable generators. The corporation shall make this information available to persons who desire to recycle or recover industrial materials. The information shall be made available in such a manner as to protect the trade secrets of the generators. Information submitted to the clearing house shall not be subject to disclosure under the freedom of information law as set forth in article six of the public officers law.

viii. Preparation and the continuous update when appropriate of a list of industrial materials which the corporation finds are economically and technically feasible to recycle or recover. Each material shall be categorized according to the degree of difficulty and the kind of difficulty encountered in recycling or recovery of that material.

ix. Preparation, in conjunction with industry, of a handbook on recovery and recycling to be made available to all industries upon request.

x. Coordinate with existing regional entities, public or private, to encourage participation in all elements of the program.

c. The corporation shall coordinate its activities under this section with the department of environmental conservation with such department's responsibilities pursuant to title four of article twenty-seven of the environmental conservation law.

d. The corporation may enter into contracts with private entities for the purpose of having such entities undertake activities called for under this section.

4. Trade secrets; confidentiality. a. The corporation shall ensure that any trade secrets or other proprietary or confidential data or information of a personal nature, required to be utilized pursuant to this section, shall be utilized by the corporation in connection with its respective responsibilities pursuant to this section, and that such trade secrets and other proprietary or confidential data or information are not otherwise disseminated without the express consent of the generator furnishing such information.

b. For the purposes of this section, trade secrets and other proprietary or confidential data or information may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, customer lists, production data, or compilation of information within a commercial concern which is using it to fabricate, produce or compound an article of trade or service having commercial value, and which gives its owner or authorized user an opportunity to obtain a business advantage over competitors who do not know, use or have access to such data and information.

c. For the purposes of this section, due to the unique nature of the program, any generator who claims that specified data or information to be utilized pursuant to any requirement of this section contains trade secrets or other proprietary or confidential data or information of a personal nature may set forth such claims in writing to the corporation for the protection of trade secrets afforded pursuant to this subdivision. Such information shall not be subject to disclosure under the freedom of information law as set forth in article six of the public officers law.

d. The corporation shall have rules of conduct for employees and contractors of the corporation involved in the design, development, operation and maintenance of any trade secret record-keeping and instruct each such employee or contractor with respect to such rules and the requirements of this subdivision including any other rules and procedures adopted pursuant to this section and the penalties for noncompliance.

e. The corporation shall have appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of trade secret information and records and to protect against any anticipated threats to their security or integrity which could result in their unauthorized disclosure.

5. Improper disclosure of trade secrets or other proprietary or confidential data or information of a personal nature. No officer, employee or contractor of the corporation shall intentionally publish, divulge, disclose or make known in a manner not authorized under the provisions of this section any trade secret or other proprietary or confidential data or information of a personal nature available to him in the course of his employment. Any such official, employee or contractor who violates the provisions of this subdivision shall be liable for a civil penalty not to exceed five thousand dollars. In addition, any official or employee who violates the provisions of this subdivision may be dismissed from his office or employment.

6. Report to the legislature. The chairman of the corporation shall, not later than twelve months after the enactment date of this section and annually thereafter, prepare and submit a report on the status of the reduction, recycling and recovery of industrial materials as facilitated by the provisions of this section to the governor and the legislature. In addition, such report shall include, but not be limited to the quantities, composition and disposition of hazardous waste generated by region in the preceding year and the listing of such wastes feasible to recycle and recover developed pursuant to this section. The chairman of the corporation shall also report on the scope, status and

efficacy of the program, including the small quantity generator hazardous waste audit program, and specific recommendations for continuation of the program; provided, however, such chairman shall withhold information on the source or nature of particular industrial materials in such a manner as to protect trade secrets or confidential information of the generators.

7. Small quantity generator hazardous waste audit program. a. The corporation shall establish and be responsible for a small quantity generator hazardous waste audit program. To carry out such program, the corporation is authorized to obtain the services, as necessary, of waste management specialists to conduct waste audits at the facilities of hazardous waste generators that have produced less then one thousand kilograms of hazardous waste in each of the past twelve calendar months. The purpose of such audits shall be to provide on-site technical assistance to aid such generators in complying with New York state's hazardous waste regulations and to identify and evaluate the potential for reducing the amount and/or toxicity of hazardous waste generated at such facilities.

b. Waste audits conducted pursuant to this subdivision may include, but need not be limited to:

(i) identification of all hazardous wastes generated at the facility;

(ii) identification of the regulatory requirements associated with the storage, treatment, or disposal of all hazardous wastes generated at the facility;

(iii) identification of any methodologies, processes, equipment, or production changes which could be utilized by the facility to reduce the amount or toxicity of hazardous wastes generated at the facility;

(iv) identification of any on-site recycling or waste treatment technologies which could be utilized to reduce the amount or toxicity of hazardous wastes disposed of by the facility; and

(v) identification of any potential markets for hazardous waste generated by the facility, including the use of waste exchange markets.

c. The corporation shall establish by rule and regulation, upon consultation with the director of the budget, a sliding fee schedule to

offset the costs of conducting on-site audits. The fee schedule established pursuant to this section shall be intended to provide revenues sufficient to meet solely the costs incurred by the corporation in performing such audits, provided that the corporation may use technical assistance grants it receives from the federal government, private foundations, or other institutions to reduce or eliminate fees charged generators for performing such audits, and further provided that monies appropriated to the corporation to carry out the purposes of this subdivision shall not be used to provide financial assistance to waste generators for the purchase of manufacturing plants or equipment, property, real or otherwise, engineering or legal services, or any other cost incident to the actual implementation of a waste reduction or management project. The chairman of the corporation is authorized and directed to deposit all monies received in payment of fees under this subdivision in an account within the miscellaneous special revenue fund.

d. Any person receiving audit services pursuant to this subdivision shall, within ninety days of the completion of such audit, submit to the corporation a description of the steps it will take, if any, to implement any recommended waste reduction, recycling, or treatment strategies identified in such audit.

e. In implementing the small quantity generator hazardous waste audit program, the corporation is authorized to:

(i) hire or contract with an appropriate number of hazardous waste management specialists to conduct on-site waste audits;

(ii) employ such public information methods as are appropriate to identify and inform eligible hazardous waste generators of the existence of the waste audit program;

(iii) establish a small quantity generator hazardous waste audit program application consistent with the policies and goals of this section; and

(iv) establish by rule and regulation a small quantity generator hazardous waste audit program application evaluation procedure consistent with the policies and goals of this section.