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OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

MAR 13 1991

MEMORANDUM

SUBJECT: Clarification of SQG Requirements and Liabilities

FROM: Sylvia K. Lowrance, Director
Office of Solid Waste (OS-300)

TO: Jeffrey Zelikson, Director
Hazardous Waste Management Division (9H-1)

This memorandum is written in response to your February 20, 1991, request for clarification of the regulatory requirements and potential liabilities of small quantity generators pertaining to the use of hazardous waste manifests to assist you in responding to William Apger.

The practice in question is a situation in which hazardous waste is transported to a permitted (or interim status) storage facility, accompanied by a hazardous waste manifest; a small quantity generator has initiated the shipment, and has contracted with the storage facility to clean up and remove the waste from the generator's property. Once the waste reaches the storage facility, the manifest is signed and returned to the generator. The waste is later sent to another designated facility for final treatment and disposal, and is accompanied by a second manifest on which the storage facility is named as the generator. The requestor asks if this practice conforms to the legal requirements imposed under RCRA, if obtaining and following recordkeeping requirements for the first manifest is sufficient, and if the generator should request copies of the manifest initiated by the owner/operator of the storage facility when the waste is shipped to the second facility.

Small quantity generators who generate between 100 and 1000 kg of hazardous waste per month, as well as generators of more than 1000 kg per month, are required to comply with regulations pertaining to the manifest. If the generator, the transporter, and the storage facility in the scenario presented each use the

uniform hazardous waste manifest during handling of the waste, completing the required signatures (the generator, transporter, and storage facility before a copy is returned to the generator in accordance with 40 CFR 262 Subpart B) and maintaining the required records, then the generator would appear to be in compliance with the Federal regulations. Note that conditionally-exempt small quantity generators, i.e., generators of less than 100 kg of hazardous waste in any given month, are exempt from the manifest provisions.

As you are aware, States are allowed to impose regulations which are either more stringent or broader in scope than the Federal regulations; therefore, the generator should also check with the State in which his facility is located.

The letter which you provided with your request for assistance also states that the storage facility would, upon request, furnish the generator with copies of the manifests which are prepared at the storage facility for the subsequent transportation of the waste to the ultimate treatment and disposal facility. If the generator is requesting such copies because of a concern about potential future liability, a request for copies of these manifests could be regarded as a prudent practice. As you know, the generator retains potential liability under Superfund for future mismanagement of hazardous waste even after it has left his site and is out of his possession.

Please contact me if you need further clarification on this or other issues.