



U.S. Department  
of Transportation  
**Research and  
Special Programs  
Administration**

400 Seventh St., S.W.  
Washington, D.C. 20590

OCT 13 2004

Mr. William Eric Mendenhall  
Regional Transportation Compliance Manager  
Safety-Kleen Systems, Inc.  
P.O. Box 909  
Oak Harbor, WA 98277-0909

Ref. No.: 04-0186

Dear Mr. Mendenhall:

This responds to your letter dated August 5, 2004, regarding whether hazardous waste shipped under the U.S. Environmental Protection Agency's (EPA) Tolling Agreement Manifest Exclusion, and hazardous waste from Conditionally Exempt Small Quantity Generators (CESQGs) meet the definition of a hazardous waste as defined under the Department of Transportation's (DOT) Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180).

Certain materials that meet EPA's definition of hazardous waste are exempt from manifesting under EPA requirements (e.g., universal wastes, or wastes shipped by small quantity generators under a tolling agreement). Under the HMR, a hazardous waste is any material that is subject to the Hazardous Waste Manifest Requirements of the EPA specified in 40 CFR Part 262 (see §171.8). Hazardous wastes that are excepted from manifesting under EPA regulations are not regulated as hazardous wastes under the HMR.

Section 172.101(c)(9) of the HMR requires shippers to place the word "waste" in front of the proper shipping name if the material is a waste as defined in § 171.8, and the description of the material does not already include the word "Waste." The HMR do not permit the use of the word "Waste" preceding a proper shipping name if the material does not meet the definition in §171.8 for a hazardous waste.

I hope this satisfies your inquiry. If we can be of further assistance, please contact us.

Sincerely,

John A. Gale  
Chief, Standards Development  
Office of Hazardous Materials Standards



040186

172.205



Engrum  
§ 172.205'  
Shipping Papers  
04-0186

August 5, 2004

Director of Hazardous Materials Standards  
U.S. Department of Transportation/RSPA DHM-10  
400 Seventh Street, S.W.  
Washington, D.C. 20590-0001

**Re: Letter of Interpretation Request for Hazardous Waste Shipped Under the EPA  
Tolling Agreement Manifest Exclusion.**

Hazardous waste from small quantity generators (SQG's) that is shipped under the tolling agreement manifest exclusion, found in 40 CFR Part 262, as well as hazardous waste from conditionally exempt small quantity generators (CESQG's), do not appear to meet the U.S. Department of Transportation definition of hazardous waste. 49 CFR 171.8 defines hazardous waste as a material that is subject to the hazardous waste manifest requirements of 40 CFR Part 262.

In addition, 49 CFR 172.205 prohibits hazardous waste from being transported without being accompanied by a hazardous waste manifest.

49 CFR 172.101(c)(9) states that, unless it is already in the shipping name (such as "Hazardous waste liquid, n.o.s."), the word "Waste" shall appear preceding the proper shipping name of a material that meets the definition of a hazardous waste found in 49 CFR 171.8.

All of this being said, would it follow that hazardous waste from a conditionally exempt small quantity generator (CESQG), or hazardous waste from a small quantity generator (SQG) that is shipped under the tolling agreement manifest exclusion, does not meet the DOT definition of hazardous waste?

When shipping hazardous waste from a CESQG, or a SQG that is shipped under the tolling agreement manifest exclusion found in 40 CFR Part 262, may the word(s) "Waste," or "Hazardous waste," appear in front of, or as, the shipping name on a bill of lading?

Thank you for your response on these issues.

Sincerely,

William "Eric" Mendenhall  
Regional Transportation Compliance Manager  
Safety-Kleen Systems, Inc.  
PO Box 909  
Oak Harbor, WA 98277-0909

Fax- (928) 222-2747

Email- [eric.mendenhall@safety-kleen.com](mailto:eric.mendenhall@safety-kleen.com)