



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

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

OCT 4 2001

Ref. No. 01-0199

Mr. John Wessel
State of Iowa
Department of Natural Resources
Wallace State Office Building
502 E 9th Street
Des Moines, Iowa 50319-0034

Dear Mr. Wessel:

This responds to your July 26, 2001 letter requesting clarification of the applicability of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to your hazardous waste collection centers. Specifically, you ask if the HMR apply to the transportation of hazardous waste and hazardous materials collected by your government operated hazardous waste collection program.

According to your letter, your Department has created several Regional Collection Centers (RCCs) to assist small business generators meeting the Environmental Protection Agency's (EPA) definition of a Conditionally Exempt Small Quantity Generator (CESQG) with the disposal of their waste materials. Your questions are summarized and answered as follows:

- Q1 Are CESQG businesses required to follow the HMR when bringing waste to the RCCs for disposal?
- A1. CESQG wastes generally are not considered hazardous wastes under the HMR because they are not subject to EPA's Hazardous Waste Manifest requirements (see § 171.8). However, CESQG wastes that meet the definition of a specific hazard class or that are listed as a hazardous substance in Appendix A to § 172.101 are subject to the HMR.
- Q2. One of the primary functions of the RCCs is education in the management of hazardous materials generated by households and CESQG businesses. According to EPA, CESQG hazardous waste is not required to be managed as hazardous waste. Are the RCCs required to advise CESQG businesses of DOT regulations when the CESQG business is transporting its waste to the RCC for disposal?
- A2. No. It is the offeror/shipper's responsibility to comply with the applicable requirements of the HMR, including properly classing, packaging, and describing a hazardous material for transportation. Of course, we appreciate any assistance in the education of those entities subject to the HMR.



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Q3. If the RCC is receiving payment by a local community to stage a one-day collection of household hazardous materials at no charge to residents, is the RCC required to follow DOT hazardous materials regulations when the hazardous materials are being transported by the RCCs back to their facilities?


A3. No. The HMR govern the safe transportation of hazardous materials in commerce as specified in § 171.1. "In commerce" generally means in furtherance of a commercial enterprise. A state agency or local jurisdiction that transports hazardous materials using its own personnel for government purposes is not subject to the HMR. Even though communities that are part of an RCC sometimes reimburse each other for various services, they are conducting a non-commercial enterprise that is not considered to be transportation in commerce. However, if the state agency or local jurisdiction transports hazardous materials for a commercial purpose or offers a hazardous material for transportation to a commercial carrier, then the HMR apply.

Q4. Do the HMR apply to the RCCs in Iowa?

A4. See response in A3.

I hope this answers your inquiry.

Sincerely,



Delmer F. Billings
Chief, Standards Development
Office of Hazardous Materials Standards



THOMAS J. VILSACK, GOVERNOR
SALLY J. PEDERSON, LT. GOVERNOR

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§171.1
Applicability
STATE OF IOWA

DEPARTMENT OF NATURAL RESOURCES
JEFFREY R. VONK, DIRECTOR

01-0194

July 26, 2001

Del Billing DHM-11
Research and Special Programs Administration
Office of Hazardous Materials Standards
400 7th St. SW
Washington, DC 20590

Dear Mr. Billings:

We are requesting your assistance to resolve several questions that have recently arisen regarding the disposal of Conditionally Exempt Small Quantity Generator (CESQG) waste. The Iowa Department of Natural Resources (IDNR) has been working since 1994 to implement a program to assist small business generators (meeting the Environmental Protection Agency's definition of CESQG) with hazardous waste disposal. One facet of this program has been the establishment of several Regional Collection Centers (RCCs) throughout the state.

The RCCs are permanent collection facilities that educate the public on hazardous waste management issues and accept hazardous waste from residents at no charge. Additionally, the RCCs work with CESQG businesses in the area of hazardous waste management education and will dispose of CESQG hazardous waste for a small fee.

The RCCs are located at landfills, recycling centers or on landfill-owned property throughout Iowa. Each RCC has an established service area, or region of the state, that it provides support to. The RCCs are required to hold permits from the Solid Waste Section of the IDNR. These permits are generally issued as amendments to the current landfill permit. The RCCs are governmental operations that are funded partially through the IDNR and partially through the local entities (e.g. city, county or 28E established governing bodies) that participate in the program. Local entities pay a per capita fee annually to participate in the RCC program. This fee is paid directly to the RCC. All RCC employees are paid by the city, county or governing 28E entity.

To assure that all hazardous wastes being accepted are managed safely and properly, all RCC employees are required to complete 40-hour hazardous waste operator training (HAZWOPER), annual refresher courses and are required to complete additional continuing education. The RCC managers meet on a quarterly basis with the Department of Natural Resources to learn from each others programs, address any problems which may have arisen and to address any regulatory compliance questions which may have arisen.

Many of the RCCs have mobile collection units, which are used to stage one-day collection events for larger population centers located in their service areas. The collection events are

collaborative efforts between the RCC and the local community. The collection events are also conducted at no charge to the residents. CESQG businesses are not eligible to participate. The employees operating the RCC mobile units have had DOT training in hazardous waste management.

The following questions have arisen regarding the regulations governing the Regional Collection Centers.

Are CESQG businesses required to follow DOT hazardous waste or hazardous materials transportation regulations when bringing waste to the RCCs for disposal?

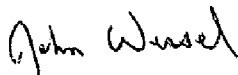
One of the primary functions of the RCCs is education in the management of hazardous materials generated by households and CESQG businesses. According to EPA, CESQG hazardous waste is not required to be managed as hazardous waste. Are the RCCs required to advise CESQG businesses of DOT regulations when the CESQG business is transporting its waste to the RCC for disposal?

If an RCC picks up hazardous materials/waste from a CESQG site in a government vehicle and charges that CESQG a nominal fee for disposal, is the RCC subject to the DOT's hazardous materials regulations for transporting hazardous materials?

If the RCC is receiving payment by a local community to stage a one day collection event of **household** hazardous materials at no charge to residents, is the RCC required to follow DOT hazardous materials regulations when the hazardous materials are being transported by the RCCs back to their facilities?

We have a copy of a letter from you to Mr. Dave Vail dated June 21, 2000, Ref. No. 00-0042, in which you state that the HMR do not apply to the transportation of household hazardous waste collected by the governmentally operated Southeastern Minnesota household hazardous waste collection program. The department is seeking a similar finding for the State of Iowa. Could you furnish us with a similar letter stating that the HMR do not apply to the RCCs in Iowa?

Sincerely,



John Wessel, Environmental Specialist
Waste Management Assistance Division

C: Arthur Fleener, U.S. Department of Transportation
Capt. Tom Sever, Iowa Department of Transportation
Liz Christiansen, Iowa Department of Natural Resources