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LIABILITY AND RESPONSIBILITY FOR TRANSPORTATION
AND DISPOSAL OF SMALL QUANTITIES OF HAZARDOUS WASTE

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

MAR 24 1986

Honorable William V. Roth, Jr.
United States Senate
Washington, DC 20510

Dear Senator Roth:

This letter responds to your request of February 3, 1986, on behalf of your constituent, Mr. William N. Cann, Jr. Mr. Cann is concerned about his responsibilities for the transportation and disposal of small quantities of hazardous waste.

As you know, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), Section 107(a), establishes liability for the costs of removal or remedial action and any other costs or damages resulting from a release of a hazardous substance. CERCLA establishes three classes of people responsible for cleanup costs, damages to natural resources, and related expenses: (1) all owners and operators of facilities or vessels, including persons who own or operated facilities at the time of disposal; (2) persons who contracted for the disposal or treatment of hazardous substances (i.e., generators), and (3) persons who accepted the hazardous substances for transport and selected the treatment or disposal facility (i.e., transporters). This concept of "joint and several" liability has been a consistent part of the CERCLA program. What has undergone recent changes are the specific requirements which a generator like Mr. Cann must meet under the Resource Conservation and Recovery Act (RCRA).

In 1980, when EPA initially issued regulations under RCRA for the management of hazardous waste, small quantity generators, those producing less than 1000 kilograms (about 2200 pounds) of hazardous waste in a calendar month, were exempted from most of the requirements applicable to larger generators. The Hazardous and Solid Waste Amendments of 1984 (HSWA), however, direct EPA to publish, by March 31, 1986, final regulations for generators of between 100 and 1000 kilograms of hazardous waste in a calendar month. At a minimum, the regulations must require 100 to 1000 kilogram/month generators to: use a Uniform Hazardous Waste Manifest when shipping hazardous waste off-site; store waste

on-site for no more than 180 days (270 days if the waste is to be shipped more than 200 miles); and ensure that their hazardous waste is managed at a hazardous waste facility with interim status or a permit under RCRA. EPA is now finalizing the regulations, and expects to publish these rules within the next two weeks. The regulations will be effective six months following publication in the Federal Register.

Until the final rules become effective in September 1986, virtually the only requirement for 100 to 1000 kg/mo generators under federal law is the HSWA statutory requirement, effective August 5, 1985, that these generators use a partially completed, single copy Manifest to accompany hazardous waste shipped off-site. Many States, however, have additional or more stringent requirements for small quantity generators in place now.

Although Delaware has generally adopted the federal RCRA program, there are additional State laws that may impact your constituent's activities. While federal law, for example, currently allows small quantity generators to send their hazardous waste to a sanitary landfill or other facility authorized by the State to accept it, I understand that Delaware landfills are not authorized to accept hazardous waste. Therefore, it is likely that Mr. Cann, as he indicates in his letter, does need to send his hazardous waste to facilities located out of State. Which is the closest facility he may use is largely dependent upon the type of hazardous waste Mr. Cann generates, as different facilities accept different types of hazardous waste. While printing establishments generally produce such wastes as contaminated solvents, without more information about Mr. Cann's specific wastes, it is difficult to provide the name of a facility authorized to accept his waste. The Delaware Department of Natural Resources and Environmental Control should be able to provide assistance to Mr. Cann.

Similarly, Mr. Cann's suggestion on that small quantity generators he allowed to transport their own hazardous waste to the facility they select is currently permitted under federal regulations. Again, however, I believe that certain State requirements may apply. If this is the case, Mr. Cann may be required to obtain a transporter license before he can haul his hazardous waste to the facility he selects.

I have enclosed a copy of a brochure we have prepared for small quantity generators explaining the current federal hazardous waste requirements, which may be helpful to Mr. Cann. Included in the brochure is an insert providing information specific to the printing and allied industries. This is one of a series of eighteen industry-specific inserts we have prepared as a part of our education/outreach effort for newly regulated small quantity generators. For your reference, I am also including a complete

set of these industry-specific inserts. We would be happy to add Mr. Cann's name to our mailing list so that he may receive a copy of the final federal regulations and other education materials as they become available. In the meantime, I suggest that Mr. Cann contact the Delaware Department of Natural Resources and Environmental Control at (302) 736-4781 for information on specific State requirements as they may apply to him.

I hope this information will be helpful. We appreciate your inquiry and your interest in the small quantity generator program.

Sincerely yours,

Original Document signed

J. Winston Porter
Assistant Administrator

Enclosures