

Overview of the Federal Hazardous Waste Electronic Manifest Rule

Presented to the ABR Spring Meeting by All4 Inc.

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History

- ❑ Notice of Proposed Rulemaking May 22, 2001.
 - ❑ Proposed hazardous waste manifest form revisions.
 - ❑ Proposed revisions to adopt electronic hazardous waste manifest (e-Manifest) system.
 - ❑ Final action on the form revisions March 4, 2005.
 - ❑ Final action on the e-Manifest provisions deferred.
- ❑ Further e-Manifest Rule Development.
 - ❑ May 2004 stakeholder meeting.
 - ❑ April 18, 2006 notice and request for comment.
 - ❑ February 26, 2008 notice and request for comment.

Legislation

- ❑ Hazardous Waste Electronic Manifest Establishment Act, October 5, 2012.
 - ❑ Directs promulgation of final regulations authorizing the use of e-Manifest and establishment of an e-Manifest system.
 - ❑ Authorizes collection of service fees and start-up funding.
 - ❑ Authorizes use of Information Technology vendors to develop and maintain e-Manifest system.

Rulemaking

- ❑ Final Rule - Modification of the Hazardous Waste Manifest System: Electronic Manifests, published February 7, 2014.
 - ❑ Effective date August 6, 2014.
 - ❑ Implementation and compliance date delayed until e-Manifest system is ready and schedule of service fees is announced.
 - ❑ Does not impose direct impacts or obligations on the regulated community *at this time*.

Who Will Be Affected

- ❑ Hazardous waste generators, transporters, and facility owner/operators.
 - ❑ Approximately 160,000 entities annually shipping/transporting/receiving 5.9 million tons of hazardous waste and using between 4.6 and 5.6 million manifest forms.
- ❑ State government agencies with authorized RCRA programs.

Required Use of Manifest

- ❑ Amends 40 CFR §262.20(a) to provide for use of:
 - ❑ Paper manifest form, or
 - ❑ e-Manifest system established by U.S. EPA.
- ❑ Wherever existing hazardous waste regulations require a manifest to be supplied, signed, used or carried, the execution and electronic signature of an e-Manifest on U.S. EPA's system will be deemed to comply.

Who Completes the e-Manifest

- ❑ No different than current use of paper forms.
 - ❑ Amendments add definition of “user of the electronic manifest” to mean generator, transporter, and facility owner/operator that:
 1. Is required to use a manifest to track shipments, and
 2. Elects to submit either an e-Manifest form or data from a paper manifest form.
 - ❑ E-Manifest system can also be used for “state only” waste tracking requirements.

Which Documents Are Electronic?

- ❑ Only the manifest form (EPA Form 8700-22) and the continuation sheet (EPA Form 8700-22A).
- ❑ Does not cover:
 - ❑ Land Disposal Restriction (LDR) Certification.
 - ❑ Acknowledgement of Consents to Export.
 - ❑ Exception or Discrepancy Reports.
- ❑ Because U.S. DOT hazardous material regulations require a hard copy of shipping papers on the vehicle, it will be necessary to carry a printed copy of the e-Manifest (at least for now).

Opting Out

- ❑ Use of e-Manifest system not mandatory (at least initially).
- ❑ Designated facility required to submit a final copy of paper manifests to the e-Manifest system either in supported electronic format or as a paper copy.
 - ❑ Must be submitted within 30 days of delivery.
 - ❑ Additional user fee paid by designated facility.

All In or Nothing

- ❑ e-Manifest can be used only when it is known at the outset that all named waste handlers can participate electronically.
 - ❑ Unless access can be provided by another involved party through hand-held or other technology.
- ❑ Provisions included for “replacement manifests” in situations where the e-Manifest can not be completed electronically.

The e-Manifest System

- ❑ Will be developed within and governed by the Cross-Media Electronic Reporting Regulation (CROMERR) found at 40 CFR Part 3.
 - ❑ Expected to be hosted on U.S. EPA's Central Data Exchange (CDX).
 - ❑ Provides established system information security.
- ❑ Details of the e-Manifest system are still to come but are intended to support specified functions.

e-Manifest System Functions

1. Creation of an e-Manifest that supports all data elements, several user interfaces (including mobile), and data quality aids.
2. Format and communication standards to enable data exchange with industry and state data management systems, data manipulation, and transmissions between handler devices and the system.
3. Work flow that supports “chain of custody” tracking of each shipment, preservation of records for shipment statuses, and synchronization of mobile devices.

e-Manifest System Functions

4. Valid and enforceable electronic signatures and identity proofing per CROMERR and hazardous waste rules.
5. Standard reports and customized queries.
6. Data access for states through the National Environmental Information Exchange Network.
7. National repository to manage data from both electronic and paper manifests.
8. Standard processing of final paper copies including imaging, data import, and quality checks.
9. Electronic payment and collection of user fees.

Repository of Manifest Data

- ❑ Establishes a means to efficiently share manifest data with states and the public.
- ❑ Determination that information from individual manifests, and the aggregate manifest data in the e-Manifest system, is not confidential business information (CBI).
 - ❑ Effective August 6, 2014 no CBI claims concerning processing, using, or retaining paper manifests or e-Manifests will be accepted.
 - ❑ 90-day “in process” period before information made available.

Implementation Schedule

- ❑ e-Manifest Act requires establishment of e-Manifest system within 3 years (October 2015).
- ❑ “. . .will be a challenge for EPA . . .” (79 FR 7551).
- ❑ A separate Federal Register notice will announce when the e-Manifest system is available. This notice will also publish:
 - ❑ Delayed compliance and implementation date.
 - ❑ Fee schedule for electronic and paper manifest submissions.
 - ❑ Arrangements for submitting paper manifests.

Summary

- ❑ No direct impacts or obligations on the regulated community in the near future.
- ❑ When those impacts come, at a minimum, they will affect:
 - ❑ Cost of shipping, transporting, and receiving hazardous waste.
 - ❑ Arrangements and contracts between generators, transporters, and receiving facilities.

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