



October 7, 2015

TO: Members, Subcommittee on Environment and the Economy
FROM: Committee Majority Staff
RE: Hearing entitled “E-manifest: An Update on Implementation.”

I. INTRODUCTION

On Friday, October 9, 2015, at 9:00 a.m. in 2123 Rayburn House Office Building, the Subcommittee on Environment and the Economy will hold a hearing entitled E-manifest: An Update on Implementation.”

II. WITNESSES

- Barnes Johnson, Director, Office of Resource Conservation and Recovery, Office of Solid Waste and Emergency Response, U.S. Environmental Protection Agency.

III. BACKGROUND

Section 3002 of the Solid Waste Disposal Act (42 U.S.C. 6922) (RCRA) requires the use of a manifest system to assure that hazardous waste designated for treatment, storage, or disposal arrives at the treatment, storage, or disposal facility (other than facility on the premises where the waste was generated) for which a permit has been issued.

To carry out this requirement, the Environmental Protection Agency (EPA) established the Hazardous Waste Manifest System (HWMS), a set of paper forms, reports, and procedures designed to track the type and quantity of hazardous waste being transported. The forms contain instructions for handling that waste, and signature lines for all parties involved in the waste’s disposal from the time it leaves the facility where it was generated until it reaches the off-site waste management facility that will store, treat, or dispose of it. The paper form, called the Uniform Hazardous Waste Manifest, must be prepared by all generators who transport, or offer for transport, hazardous waste for off-site treatment, recycling, storage, or disposal. The HWMS allows the waste generator to verify that its waste has been properly delivered and that no waste is lost or unaccounted for in the process.¹ Paper copies of the manifest (including multiple copies of a single form to allow each person in the chain of custody to retain a copy) not only must accompany the waste as it is transported, but must be mailed to generators and State agencies and kept on file by each regulated entity. Once the waste reaches its destination, the receiving facility returns a signed paper copy of the manifest to the generator, confirming that the waste has been received by the designated facility.²

¹ <http://www.epa.gov/wastes/hazard/transportation/manifest/index.htm>.

² <http://www.epa.gov/wastes/hazard/transportation/manifest/index.htm>.

Additionally, several States have extra requirements regarding the use of the new Uniform Hazardous Waste Manifest. For example, some States require copies to be submitted to the State, and/or have State-specific waste codes in addition to the Federal hazardous waste codes required to be entered on the new manifest.³

A. The Hazardous Waste Electronic Manifest Establishment Act

Over time, it became clear to both regulators and industry that advances in technology, coupled with the annual paperwork burden to States and private entities (estimated by EPA at \$193 million to \$400 million) that it was time to move toward an electronic system.⁴

On October 5, 2012, President Obama signed S. 710, to establish an electronic system to accept submissions of hazardous waste manifests under Subtitle C of the Solid Waste Disposal Act (P.L. 112-195).

P.L. 112-195 authorized appropriations of \$2 million for each of fiscal years 2013 to 2015 for start-up activities. The Hazardous Waste Electronic Manifest Establishment Act also includes requirements on the Administrator to:

- within three (3) years, create a hazardous waste electronic manifest system that may be used by any user of manifests.
- deposit user fees into a revolving fund for use by the Administrator to pay only those costs incurred in developing, operating, maintaining, and upgrading the hazardous waste electronic manifest system;
- periodically report on the financial status of the revolving fund to Congress and the Inspector General of the EPA to provide an accounting of the actual expenditures from the revolving fund; and
- create a Hazardous Waste Electronic Manifest System Governing Board to evaluate the effectiveness of, and make recommendations for improving, the manifest system.

While the Administrator is authorized to establish a fee on the users of this hazardous waste electronic manifest system, contract payment and electronic manifest system creation and operation are subject to appropriations.

P.L. 112-195 allows the Administrator to enter into one or more contracts for the creation of a hazardous waste electronic manifest system, so long as any such contract achieves certain

³ <http://www.epa.gov/epawaste/hazard/transportation/manifest/>

⁴ Testimony before the House Energy and Commerce Committee Hearing, entitled “Electronic Submission of Hazardous Waste Manifests – Modernizing for the 21st Century,” June 21, 2012.

goals, including meeting the needs of the user community, which includes States that rely on data from manifests.

B. Implementation of the Hazardous Waste Electronic Manifest Establishment Act

Under the law, EPA was required to promulgate a final regulation authorizing the use of electronic manifests for compliance with the requirements of section 3002 of the Solid Waste Disposal Act by October 5, 2013. EPA published this final rule on February 7, 2014. This regulation provides the legal and policy framework for waste handlers who choose to complete, sign, transmit, and store manifest information electronically once the system is deployed. States that currently receive and collect paper manifest copies will receive copies of manifest data electronically from the system.

Concerning the initial setting of user fees to fund the operation of the electronic manifest system, the EPA is conducting a rulemaking in consultation with industry and State users to establish the fee structure that will be necessary to recover costs. The proposed user fee rule is anticipated by May 2016. The initial fees will be set to cover not only operation and maintenance costs, but also the costs of developing the system. Final system development costs obtained through the contracting process will allow the Agency to publish a final user fee regulation (EPA estimates this to be approximately 90 days before national system deployment). The Act also calls for the establishment of a Hazardous Waste Electronic Manifest System Advisory Board that consists of at least two people with expertise in information technology, three people with experience in using or representing users of the e-Manifest system, and three State representatives. The Act calls for the Board to be established no later than October 2015. EPA completed the Advisory Board Charter and is in the final process of selecting Board members. EPA will consult with the Board to make adjustments to the fees once the board is operating.⁵

Hazardous waste handlers may not comply with section 3002 by tracking their hazardous waste shipments electronically under a national system until EPA establishes the e-Manifest system. The Act directs development of an operating system by October 5, 2015.

C. Funding and Personnel

RESOURCES⁶
(Dollars in Millions):

	FY 2014 Enacted		FY 2015 Pres Bud		FY 2015 Enacted		FY 2016 Pres Bud	
	\$	FTE	\$	FTE	\$	FTE	\$	FTE
Total	\$3.7M	8.0	\$10.4M	8.0	\$3.7M	8.0	\$7.4M	7.9

⁵ Ibid.

⁶ Message from the EPA Office of Congressional and Intergovernmental Affairs, 6/10/2015

IV. STAFF CONTACTS

If you have any questions regarding this hearing, please contact David McCarthy or Jerry Couri of the Committee staff at (202) 225-2927.